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From Mr. Chas H. Richmond

May, 92

FITZ-JOHN PORTER.

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SPEECH

49042

OF

HON. GEORGE W. <sup>Washington</sup> RAY,  
OF NEW YORK,

IN THE

HOUSE OF REPRESENTATIVES,

FRIDAY AND SATURDAY, JANUARY 25 AND 26, 1884.

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In the years to come may it be our glory and pride that justice  
was always done the soldiers of the Republic.

"Truth, crushed to earth, shall rise again,  
The eternal years of God are hers;  
But Error, wounded, writhes with pain,  
And dies among his worshippers."

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WASHINGTON.

1884.

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S P E E C H  
OF  
HON. GEORGE W. RAY.

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The House being in Committee of the Whole, and having under consideration the bill (H. R. 1015) for the relief of Fitz-John Porter—

Mr. RAY, of New York, said:

Mr. CHAIRMAN: As a new member of this House I should feel somewhat reluctant to engage in this discussion were it not for the fact that I performed some little service as a private soldier. It will be proper in my judgment for this House to consult the privates as well as the brigadiers. There are several reasons which induce and compel me, acting here as a judge and juror, to support this bill restoring Fitz-John Porter to the Army. They are:

First: The trial of Fitz-John Porter was had at a time when men were more or less moved by passion and prejudice, and when deliberate judgment upon such a subject was not fully exercised.

Second: Most material evidence explanatory of the acts of General Porter, offered in his behalf, was excluded, and illegal evidence damaging in its nature was admitted.

Third: Newly discovered evidence has been placed upon the record, coming from the lips of disinterested witnesses, which in my judgment clearly and satisfactorily shows the absolute innocence of General Porter.

Fourth: This, when taken in connection with the previous record, shows clearly that the court-martial acted under the erroneous impression that no enemy in force was in front of General Porter on the 29th of August, 1862, while it now appears that Longstreet's whole force was there; so that an attack by Porter at that time would have been a "great blunder" and a "great crime."

Fifth: It is also evident that the court acted under the erroneous impression that General Porter not only refused and neglected to fight that day, when he had orders to do so, but that he actually retreated without attacking or being attacked, and at a time when the rest of the Army was engaged in a furious battle two miles to his right; while it now appears beyond any controversy, beyond any possible dispute, that all these assumptions were incorrect, and that his conduct "was subordinate, was judicious," and was loyal and most wise.

Sixth: A military board of inquiry, composed of most loyal and eminent generals of our Army, Generals Schofield, Getty, and Terry, have fully examined into this matter, and while their judgment is not conclusive upon us, yet it is entitled to great weight, and ought to control us. Many of the most eminent and skilled military men of the world, after a careful and patient investigation, have fully concurred in the opinion of that board, as does General U. S. Grant, whose military opinion on this question ought to be regarded. This report fully exonerates General Porter.

Again, it is a rule of law which appeals alike to our judgment and to

Rec. Gen. M. P. 9-25-33-

our love of justice, that in all cases where a reasonable doubt exists an accused party is entitled to the benefit of that doubt. Therefore when we come to consider the questions that are involved in this case we should look at them candidly, fairly, and honestly, throwing aside our preconceived notions, throwing aside all passion, throwing aside all partisanship, and approaching their consideration, ready if a reasonable doubt exists in our minds to give the accused the benefit of that doubt. We are to act on this question, not as Republicans or as Democrats, but as fair, intelligent judges of law and fact.

I would call attention to one or two questions that have been asked by the gentleman from Ohio [Mr. KEIFER]. I desire to answer them. It seems to me that the record in this case furnishes the most ample and the most conclusive answer. If the record before this House furnishes no answer, if the gentleman will turn to any military history or any military record of the war of the rebellion he will find those questions answered beyond all cavil.

The gentleman asks us why it was that McClellan wrote the letter to General Porter asking him to give every aid to General Pope? I can tell him, and he knows full well why it was. It is a matter of history that for twenty long years has not been contradicted. General McClellan wrote that letter at the request of Lincoln, and because General Pope, in order to excuse his own blunders, his own ignorance, and his own incompetency, after having been guilty of a series of the most egregious blunders that ever disgraced the military annals of this or any other country, had aimed the shafts of slander at General Porter, and had thus sought to evade the responsibility of the failures of that campaign. That is the verdict of history, and it is the verdict of the people of this country with very few exceptions.

I desire to answer another proposition that was advanced by the gentleman from Ohio. He read from the report of the proceedings of this board of inquiry what was said when the subject was under discussion as to what evidence should be taken into consideration. He said in substance and charged that this board of inquiry admitted anything, admitted everything in the shape of evidence. He said in substance that they took into consideration not only legal evidence but all that had been said on the street-corners, in the byways, and among the hedges. Such is not the record. As the gentleman went along he said, "Now we will skip." When he reads the record my gallant friend from Ohio should not "*skip*" the material parts of it. If he reads a part, he should read the whole relating to the point he criticises.

I call the attention of the House to the question that was under consideration when the members of the board made use of the language which the gentleman read. Colonel Smith, Captain Pope, and Duffee had been called as witnesses before the court-martial. All of them had given evidence more or less to the disadvantage of General Porter. After that trial had closed, after the court-martial had shut its doors, after that most unjust and most unrighteous verdict had been pronounced, this Colonel Smith, this Captain Pope, and this man Duffee, each of them, had made declarations and statements in contradiction of what they testified to before that court, and Captain Pope confessed he lost his way when he went to deliver the 4.30 order and did not deliver it till about dusk. When the question came up before this board of inquiry as to whether or not those declarations should be admitted, this board of inquiry made use of the language that the gentleman read. I appeal to the conscience, to the common sense, to the legal knowledge of every lawyer upon the floor of this House and ask them to say whether



or not that ruling was not most just, most wise and proper, and whether it was not in strict accordance with the rules of law and evidence? I pause for an answer.

Mr. BROWNE, of Indiana. Without having called the witnesses and examined them in regard to the conversations and the time and place? I do not know how the law is in New York.

Mr. RAY, of New York. Yes, sir, under the circumstances. [Laughter on the Republican side.]

Mr. BROWNE, of Indiana. I will simply say that I have been practicing law for some years in Indiana, and that is not the law there.

Mr. RAY, of New York. The witnesses had been sworn; they had given their testimony before the court-martial; it had been reduced to writing, and was a matter of record in the War Department of this great country, and was then before the board. And when this board of inquiry was appointed to ascertain the truth, the whole truth, and nothing but the truth, they had the right to ascertain whether or not the witnesses upon whose testimony General Porter had been convicted were false or true, were perjurers or truthful men.

But I will give you another answer. Each and every one of these witnesses was called and sworn before the board of inquiry. Attention was called to the contradictions, &c., and they were called in to explain, admit, or deny, and if you will take the trouble to read the record you will find that I am correct.

Mr. STEELE. Can you show any authority by which that board was clothed with the power to administer an oath?

Mr. RAY, of New York. Yes, sir; to cause it to be done.

Mr. STEELE. I defy you to do it. I defy you to show that they were clothed with judicial functions, or that they had any right whatever under the law to administer an oath.

Mr. RAY, of New York. The board did not administer oaths or assume to. An officer authorized by law to administer oaths was called in to perform that duty, and it imposed all the obligations of an oath and the penalties for perjury.

I desire to say, Mr. Chairman, that if I stop to answer the questions of these gentlemen, which I shall be most pleased to do, the question of each and every one of them, any question which any person can ask in regard to this case, I must have an extension of time.

I have read every word of the evidence in this case over and over again. I have studied all the orders, because ten years ago, like many others, I was groping in the dark, I was blind and would not see. When the truth began to come out and I got a little glimmering of light ten years ago (having then lived ten years in the dark, believing that General Porter was guilty), I began to investigate the matter. As I began to read I began to see my error. It is with the greater pleasure, therefore, that I stand here to defend General Porter and to ask justice for him at the hands of this House. [Applause.]

Perhaps I may transcend some of the rules of debate, but that makes no difference. I think I have the case in my head, and I know that I have it in my heart. [Renewed applause.]

I therefore say again that if the gentlemen will agree to have my time extended to-morrow, when I shall again take the floor, it will be with the greatest pleasure that I shall answer every question that they may ask me.

Mr. BROWNE, of Indiana. I desire to say to my distinguished friend that I would not have interrupted him had I not understood that he invited an interruption.

Mr. RAY, of New York. I did yours, but I did not invite the question of the other gentleman.

When the gentleman asks me if this board had any right to take a judicial oath and to impose upon its witnesses any judicial responsibility, I say no. Neither did the original court-martial act judicially. A court-martial is no part of the judicial system of this Government.

Mr. BROWNE, of Indiana. That is a mistake.

Mr. RAY, of New York. It is a mistake, you say. I invite your attention to the Constitution of the United States where the length and breadth of the judicial powers of this Government are fully described and pointed out, and if anywhere therein you can find that the proceedings of a court-martial come within those powers, then I will yield to the argument.

Mr. HERR. I beg the gentleman's pardon, but will he tell us what body acts judicially in the Army?

Mr. RAY, of New York. A court-martial.

Mr. HERR. Oh?

Mr. RAY, of New York. But I say it is no part of the judicial system of this Government.

Mr. HERR. You say they do not act judicially. How do they act?

Mr. RAY, of New York. A court-martial acts in the same way that this House acts when it lays down its rules for its government; in the same way that this House acts when through its Speaker or its chairman it enforces those rules. I ask the gentleman if he will tell me that our chairman in enforcing the rules of this House acts as a judge? Does this House in saying whether or not the Speaker decides correctly or incorrectly act in a judicial capacity? I ask him that question.

Mr. CUTCHEON. Will the gentleman permit me to interrupt him one moment?

Mr. RAY, of New York. I will.

Mr. CUTCHEON. The gentleman says that courts-martial are no part of the constitutional judicial system of this country. Article 3, section 1, of the Constitution reads as follows:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish.

Now, courts-martial have been established by the Congress of the United States, and they are the only courts that are known to the land and naval forces of the United States.

Mr. RAY, of New York. If the gentleman will read right along he will find that the same Constitution says that the proceedings of every court within that definition shall be subject to the appellate powers of the court, and may be reviewed in the higher courts. I ask the gentleman, in answer to his proposition, whether or not he ever heard of there being any appellate power applicable to a court-martial?

Mr. CUTCHEON. Because a general court-martial, when its sentence is approved by the President of the United States, is itself a supreme court so far as the land and naval forces are concerned, and there is no superior to it.

Mr. RAY, of New York. Well, I have no time to stop to argue that question with the gentleman.

Mr. TOWNSHEND. Now, I hope the gentleman from New York will be permitted to proceed with his argument without being interrupted with questions which he is not willing to have put.

Mr. CUTCHEON. Then the gentleman should not invite questions.

Mr. RAY, of New York. And he has not invited but one.

Mr. BROWNE, of Indiana. I rise to a question of order. The gen-



tleman from Illinois [Mr. TOWNSHEND] is interrupting the gentleman occupying the floor.

Mr. CUTCHEON. I would like to call the attention of the gentleman from New York to a recent decision of the Supreme Court in Mason's case, where they sustained the position that such a court is a part of the judicial system.

Mr. RAY, of New York. They sustained the legality of the court, because it was ordained by an act of Congress; but that is very far from establishing the position that it is a part of the judicial system of the Government. That is the point.

Mr. CUTCHEON. Let me ask the gentleman this question: If such a court is not a part of the judicial system, what judicial system is there for the entire land and naval forces of the United States? That is what I want to know.

Mr. RAY, of New York. I suppose the gentleman would contend that because we have an Army in times of war—

Mr. CUTCHEON. And in times of peace.

Mr. RAY, of New York. And in times of peace, that therefore the rules and regulations controlling the Army are a part of the judicial system. I deny it. I say there are no decisions to that effect. But I can not stop here to dispute with the gentleman, and I do not care to do so.

There is one other thing to which I desire to call the gentleman's attention. He asked the question why it was that when McDowell and Porter were there in front of the rebel army on the road to Gainesville Porter did not extend by the right flank and thus connect with Reynolds away over on the left of Pope's army? If the gentleman had read history, if he had studied military law, if he had advised with military men, I think he would have found his own answer. Here is the answer to which I call the gentleman's attention: General McDowell and General Porter that morning rode out in that direction as far as and across the railroad, and after proceeding some distance over the railroad some one came to them and said: "You can not get through there." They then turned back; and McDowell took fifteen thousand of those troops and marched to the rear by a circuitous route, and did not reach the front again with his troops—did not reach Pope—until 4 or 5 o'clock. Will any gentleman dispute that? Now I ask the gentleman whether it was not as feasible and proper for McDowell with his fifteen thousand men to march up through the woods to his right, and thus connect with Reynolds, as it would have been for Porter to have done so two or three hours later in the face of the enemy?

I will ask the gentleman another question. Is it not a well established rule of military law that a military commander, with a force under him, should never attempt to make a flank march within reach of the enemy's guns on broken ground and in their immediate front? I ask him whether it has not been laid down that such a movement as that always has been and always must be destructive to the army?

A MEMBER. Oh, no.

Mr. RAY, of New York. Well, I will say it is.

Mr. MILLER, of Pennsylvania. That settles it!

Mr. RAY, of New York. The gentleman may say "that settles it;" but if he will read the best military authorities, he will find that I am right and he is wrong, and that settled law "settles it." He will find himself in the same position occupied by the gentleman from the State of Ohio [Mr. EZRA B. TAYLOR], who stated to us that all these questions of obedience or disobedience to military orders are regulated by statute, and that there is no statute saying that a military commander, when

not under the eye of his superior, may exercise a discretion as to the time and mode of executing an order, and that, therefore, no such rule exists. I will meet that further on.

But I must hasten on to the consideration of the questions in this case more directly.

Truth crushed to earth shall rise again;  
The eternal years of God are hers;  
But error, wounded, writhes in pain,  
And dies among his worshippers.

In the case of Fitz-John Porter for nearly seventeen years the truth lay crushed, although gradually dawning upon the public mind. At last there came an investigation, a report, and a vindication.

Now to come to the history of this case. You will recollect, Mr. Chairman, that the charges were preferred against General Porter on the 28th day of November, 1862, nearly three months after the scenes of the 29th and 30th days of August, 1862. And I desire to ask the gentlemen, some of them, and they can answer the inquiry at some future time, not now, why it was that for three long months the Department at Washington was idle and said nothing about these charges? Why was it after the Union army fell back from Bull Run, after that disastrous campaign had ended, that they placed General Porter in supreme command of the defenses of Washington? Why was it that they ordered him with his corps to Antietam? Why was it that for nearly three long months no charges were preferred and no action taken? And why was it he was not removed until after the removal of General McClellan? I ask gentlemen to tell me at some other time than now whether there was any connection between those two acts?

Mr. CUTCHEON. I ask the gentleman from New York——

Mr. RAY, of New York. I decline to be interrupted.

Mr. HERR. Charges were preferred within six days.

Mr. RAY, of New York. No.

Mr. CUTCHEON. Let me say——

Mr. RAY, of New York. When I am asked a question let me answer it.

A MEMBER. Charges were preferred on the 6th of September, 1862.

Mr. RAY, of New York. I say that the charges were not preferred on the 6th day of September, nor on any other day in the month of September.

When General Pope by his letters from the field filled the public mind with the whisperings of scandal and falsehood, General Porter, like the soldier he was—noble, true, brave, patriotic; a man who from his very boyhood had fearlessly faced the enemy on the battle-fields of Mexico and at Gaines's Mill and in the sanguinary battles before Richmond, still begrimed with the smoke of the enemy's guns—went to the President of the United States and begged and implored of him that a board of inquiry should be appointed and examine into his conduct and enable him to show whether or not he was guilty. Was it granted? No.

Mr. HERR. Yes.

Mr. RAY, of New York. No.

Mr. HERR. Yes.

Mr. RAY, of New York. No. [Applause and laughter.] A military commission was appointed, but dissolved. While Porter clamored for a hearing, while he clamored to make his defense, General Pope and his satellites were trying to conceal their own blunders by poisoning the mind of the Secretary of War and by poisoning the mind of the President of the United States. And the result was that when



they thought they had sufficiently poisoned their minds, when they found the Government had determined to remove General McClellan, when they found that was done, then it was, and not till then, this court-martial was ordered, November 25, 1862; then it was that the charges were preferred, and then it was that the court-martial was ordered.

Mr. BROWN, of Pennsylvania. Will the gentleman yield for a question?

Mr. RAY, of New York. Yes, sir; if it be a brief one.

Mr. BROWN, of Pennsylvania. Will you please state where you got the evidence that General Pope was poisoning the mind of the President?

Mr. HENDERSON, of Illinois. That is what I would like to know.

Mr. PETTIBONE. Yes, give him time to tell us.

Mr. RAY, of New York. Gentlemen, I presume you assume that I am asserting but not proving it. Well, if you will give me time I will read from the records of this Congress—from the records of the Senate and of this House—to prove it beyond all controversy.

Mr. BROWN, of Pennsylvania. Not from speeches?

Mr. RAY, of New York. Not from any speeches, sir, but from the official records I have here before me as contained in your reports and public documents.

Take the report that he (General Pope) sent down from the front, and in which he undertook to censure General Porter; and I ask you if there is not evidence there of an effort on his part to poison the public mind?

Mr. MILLER, of Pennsylvania. I say, no.

Mr. RAY, of New York. And I say there is.

Mr. MILLER, of Pennsylvania. I ask that he have as much time as he wants to read that report, then.

The CHAIRMAN. The gentleman from Pennsylvania is not in order.

Mr. RAY, of New York. I think I will read it to you, but not now. In the morning I will do so if you will be here to hear it read.

Mr. MILLER, of Pennsylvania. The gentleman shall have ample opportunity, and I hope his time will be extended for that purpose.

Mr. VAN ALSTYNE. I move that the committee now rise.

Mr. TOWNSHEND. The gentleman from New York has the floor.

The CHAIRMAN. The gentleman from New York is entitled to the floor.

Mr. SLOCUM. If the gentleman will yield, I will move that the committee now rise.

Mr. RAY, of New York. Very well.

Mr. TOWNSHEND. The gentleman from New York of course retaining the floor.

The CHAIRMAN. Certainly; the gentleman from New York is entitled to twenty-three minutes longer.

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*Saturday, January 26, 1884.*

Mr. RAY, of New York. Mr. Chairman, I promised yesterday at the close of the remarks I was then making to read to-day something that should show that soon after the close of the battle of the 30th of August General Pope poisoned the mind of the War Department against General Porter. In pursuance of that promise I now desire to read the following from the dispatch of General Pope, written to General Halleck at the close of the battle of the 29th, so far as there was a battle, and also

others following on the 30th and 31st, and leave the gentlemen to consider them:

HEADQUARTERS,  
*Battle near Groveton, Va., 30th—5 a. m.*

We fought a terrific battle here yesterday with the combined forces of the enemy, which lasted with continuous fury from daylight until dark, by which time the enemy was driven from the field, which we now occupy. \* \* \* The news just reaches me from the front that the enemy is retiring toward the mountains. I go forward at once to see. We have made great captures, but I am not able yet to form an idea of their extent. Our troops behaved splendidly. \* \* \*

JOHN POPE, *Major-General.*

Major-General HALLECK, *General-in-Chief.*

This was written early in the morning after the battle of the 29th, and in it we search in vain for any complaint against Porter. Pope then supposed himself victorious. Porter arrived on the ground in pursuance of orders early that morning (30th), and then Pope issued an order for the pursuit of the enemy. The order was dated at 12 o'clock noon, and contains the following:

The following forces will be immediately thrown forward in pursuit of the enemy and press him vigorously during the whole day. Major-General McDowell is assigned to the command of the pursuit.

Major-General Porter's corps will push forward on the Warrenton turnpike, followed by the divisions of Brigadier-Generals King and Reynolds.

It will be seen that at noon of the 30th General Pope, with full knowledge of the facts of the day before, assigned Porter to the post of honor, the advance in the pursuit of the enemy, who he supposed were retreating. And in his dispatches to the Government you will search in vain for any criticism on the conduct of Porter.

The enemy, instead of being in full retreat, were ready for an attack, and when our troops moved forward in what Pope supposed was to be the pursuit of a defeated and fleeing enemy, this enemy met them, repulsed them, and drove them from the field.

Of the heroic conduct of General Porter on that day (30th) I need not speak. He attacked the enemy again and again, only to be hurled back, but never in disorder. When the enemy advanced, it was Porter and his brave troops that met the onset and checked the wild attack, and hurled back a confident foe as the granite sea-beat rocks hurl back and break the insweeping billows.

Now, after this brave and heroic conduct of General Porter that day, but after the boast of Pope had been shown false by a defeat of the army, what did Pope do? Commend Porter for his gallant conduct on that day? No, sir; but he penned and sent to Washington the following malicious and false statement, and as I believe for the express purpose of covering and distracting attention from his own errors:

CENTREVILLE, *September 1—8.50 p. m.*

\* \* \* One commander of a corps who was ordered to march from Manassas Junction to join me near Groveton, although he was only five miles distant, failed to get up at all; worse still, fell back to Manassas without a fight, and in plain hearing, at less than three miles' distance, of a furious battle which raged all day. It was only in consequence of peremptory orders that he joined me the next day. One of his brigades, the brigadier-general of which professed to be looking for his division, absolutely remained all day at Centreville in plain view of the battle, and made no attempt to join. What renders the whole matter worse, these are both officers of the regular Army, who do not hold back from ignorance or fear. Their constant talk, indulged in publicly and in promiscuous company, is that the Army of the Potomac will not fight; that they are demoralized by the withdrawal from the Peninsula, &c.

Now, sir, Porter did get up that afternoon on his route to Gainesville, to which place the joint order directed him to march. It did not direct him to march to Groveton or to join Pope near there. He met the enemy and engaged him, and only desisted from battle at the command of his superior officer, McDowell, who told him he was too far

out, and that that was no place to fight a battle. He did not fall back to Manassas, but remained all night in the face of Longstreet, and marched to Groveton pursuant to orders. And, sir, where is the proof that in public and promiscuous company he ever said that the Army of the Potomac would not fight or that they were demoralized? The evidence is the other way. And, sir, no man of the Army of the Potomac ever refused to fight.

The thousands of the slain who repose on the yonder heights of Arlington and the legions whose bones strew the fields on every rod of ground from the Potomac to the James give the lie to the assertion. No braver, no truer, no more devoted army ever marched to the field or braved the perils of death. This that I have read was but the beginning of the series of slanders and aspersions to which I have referred.

The object and the animus is found when we peruse General Pope's evidence given before the Committee on the Conduct of the War. Here it is:

In the last of January, 1863, when the trial of Fitz-John Porter had closed and his guilt had been established, I intimated to the President that it seemed a proper time for some acknowledgment of my services in Virginia.

Ah, gentlemen, having done his work, he sought his reward. To the credit and praise of the noble and immortal Lincoln be it said there was no reward given. Sir, we may safely say that in the mind of that noble man there dawned a bright light when Pope so far forgot himself as to make the degradation of a fellow-soldier the occasion for demanding a reward at the hands of this great Government.

Gentlemen having sought to make a point that the decision of the board of inquiry ought not to be regarded because the board itself was not authorized to administer oaths, I desire to call attention to the fact that the board did have power to cause oaths to be administered by an officer duly commissioned and authorized so to do, thereby imposing on the witness all the obligations of an oath and all the pains and penalties of perjury. By turning to pages 5 and 6 of the record of that board gentlemen will find that course was decided upon and pursued. I regard it a complete answer to the point taken. It is eminently satisfactory to my own mind. The President had power under the law to appoint the board, being commander-in-chief of the land and naval forces of the United States, and it then became a proceeding under and by authority of law.

These witnesses having taken an oath in that proceeding, which was administered by a proper officer, duly authorized to administer oaths, it seems hardly worth while to argue that the witnesses were not obligated to tell the truth. But inasmuch as the only witnesses before that board who were suspected of perjury were Dyer, Pope, and Smith, and General Porter did not see fit to prosecute them in the criminal courts, it is hardly a practical question.

But, sir, let me resume, or rather commence, the consideration of this case in some regular order, and if possible let me proceed without so much interruption. After four years of war and anxiety, of bloodshed and tears, there came a final victory, and the boys came tramping home again, and when gentle peace once more smiled all over this broad land, and the cannon's roar, musketry's crash, and the bugle's blast no longer troubled the air, there came hours for thought, deliberation, and meditation. Removed from these scenes by twenty years of time, truth appears.

The eternal years of God are hers!

I regret exceedingly that an attempt should be made to draw party

lines on this question. There is no party or politics in it. It is a personal matter, relating solely to the question of the guilt or innocence of Fitz-John Porter. Upon the determination of that question, and that alone, should the vote of the members of this House depend. Under our oaths, the Constitution, and in the eye of the Supreme Judge of the Universe, to whom we should all pray for guidance and wisdom, we are bound to approach the investigation of this case dispassionately, seriously, and without bias. We must forget party and remember that we are acting as judges. To my conscience and my God, loving my country and her honor, proud of her past and confident of her future, shall I answer for my decision.

Until a few days since, in this House, I never saw Fitz-John Porter. During the war, and for several years, I supposed him guilty; then the study of history, a reading of the case, and the appeals of the soldiers in his behalf changed my opinion, and that has ripened into a settled conviction. Sitting in the galleries of the United States Senate I listened with the deepest interest to the argument of the brave and sturdy Senator from Illinois. He failed to shake my opinion; he chained my conviction of the innocence of Fitz-John Porter to the rock of eternal faith.

The charges against General Porter, then a major-general, recently appointed by President Lincoln without any solicitation on his part for most marked and distinguished services before Richmond, were preferred by General B. S. Roberts, a member of General Pope's staff, in November, 1862. The order convening the court was made November 25, 1862. His trial commenced in December following. The trial closed by the presentation of the argument for the defense on the 10th day of January, 1863.

The judge-advocate declined to present any argument in reply, having been present at all the deliberations of the court, and immediately the court was cleared, and within three hours the accused was pronounced "guilty."

January 13 the proceedings were transmitted to the Secretary of War. As to whether or not they were ever transmitted to the President of the United States, and if so when, the record fails to show, but they were approved and confirmed under date of January 21, 1863.

The review of the case presented to the President was most prejudiced and unfair, in my judgment. It suppressed evidence for the accused and colored that against him.

In the midst of the trial, in the dead of winter, and when no military operations were on foot, the following order was sent to the court:

WAR DEPARTMENT, *Washington City, January 5, 1863.*

GENERAL: The state of the service imperatively demands that the proceedings in the court over which you are now presiding, having been pending more than four weeks, should be brought to a close without unnecessary delay.

You are, therefore, directed to sit without regard to hours, and close your proceedings as speedily as may be consistent with justice and the public service.

Yours truly,

EDWIN M. STANTON,  
*Secretary of War.*

Major-General HUNTER,  
*President, &c.*

Comment is unnecessary. It was a court acting under orders. From that time forward General Porter constantly knocked at the doors of this Government for a rehearing, the presentation of new evidence, a full and complete examination.

Joining with him in this demand for such a rehearing were many distinguished citizens.

April 12, 1878, President Hayes appointed a board of inquiry, consisting of Generals J. M. Schofield, A. H. Terry, and G. W. Getty, all of whom had served with honor and distinction in the war of the rebellion. Excluding Generals Grant, Sherman, and Sheridan, they constitute the highest and best military authority in the country. Two of them had expressed themselves as violently prejudiced against General Porter. Yet, after a full and careful hearing and a patient examination, in which the Government was most ably represented, a unanimous report was made by that board fully exonerating General Porter, and in conclusion they say:

In our opinion justice requires at his hands (the President's) such action as may be necessary to *annul and set aside the findings and sentence of the court-martial in the case of Maj. Gen. Fitz-John Porter, and to restore him to the position of which that sentence deprived him.*

The President, being without power to act, remitted the proceedings to Congress.

General James A. Garfield, lately the loved and honored President of the United States, introduced the first measure into Congress looking to the relief of Major-General Porter. While it has been asserted that he was still convinced of his guilt, I for one too much respect and love and honor his memory for one moment to entertain that or any such belief.

General Grant after a full and patient investigation fully concurred with the board of inquiry. Of his military skill and judgment no person entertains a doubt, unless it be the vainglorious demagogue whose vanity blinds his mental vision. If any argument against General Porter shall be claimed based on the fact that the court-martial proceedings were confirmed by President Lincoln, I desire to call the attention of the House to the fact that Governor Newell, of New Jersey (page 294), testified:

Mr. Lincoln stated that he had not been able to give the personal attention to the case which its merits required; that he had accepted the opinion of the Judge-Advocate-General and of the War Department as the basis of his action; that if any new evidence exculpatory of General Porter could be introduced he would be very glad to give him an opportunity to have it presented; that he had had a high regard for General Porter personally and as a soldier; and that he hoped he would be able to vindicate himself in that way.

Sir, the fact that the decision of President Lincoln was based upon an error and a misconception of the facts as they existed is most fully shown by the testimony of his son, now Secretary of War. He says in substance that his father was strong in his condemnation of General Porter, and said that the case would have justified a sentence of death; that his father read to him the letter written by General Porter on the evening of the 29th of August, in which he stated that he was "going to retire," and was very strong in his condemnation of it.

Question. I ask you whether you inferred from his language at that time that your father believed that General Porter had done what is intimated in that letter as his intention?

Answer. I should say yes.

It will be remembered that the *gravamen* of the charge of which General Porter was found guilty was that he "did fail all day to bring it (his corps) on the field, and did shamefully fall back and retreat from the advance of the enemy without any attempt to give them battle;" also, "and did shamefully retreat away and fall back with his army," &c. Now, sir, when it is proved beyond all controversy that General Porter took his army into the immediate presence of a largely superior force and held it there all day; that he advanced his skirmishers, posted his artillery, and commenced a battle, and desisted at the command of his lawful superior, who told him he was "too far



out," and that that was "no place to fight a battle;" that the same superior officer took from him at that time King's division, which Pope had ordered to his command for the day, and also took away in all fifteen thousand men ordered to act in conjunction and concert with Porter that day on that same road; that General Porter did not retreat or fall back at all, but on the other hand twice ordered an attack, and was only prevented by the darkness from engaging in battle as soon as ordered so to do; and that he remained in the immediate presence of the enemy all that night and until ordered away by General Pope, we see clearly the error not only of the court-martial but of the President, and we must see as clearly the monstrous wrong done General Porter. That our courts-martial in time of war were not so near to perfection as gentlemen would have us think is well attested by the unanimous report of this same committee in the case of Myron E. Dunlap (Report No. 50, to accompany H. R. 1389), and to which report I refer. They adopt the report of the Forty-seventh Congress, which says, speaking of the judgment of the court-martial in that case:

It lacks such a judgment, lacks all the essentials of validity, and amounts to little more than a stain upon the military record of the party convicted.

They unanimously say that Congress has the power and the right to remove such a judgment.

Of General Marshall, who was a principal witness for General Porter on his trial, and whose evidence was then utterly ignored, they say: "General Marshall, whose brilliant military record and high character entitle whatever he may say to the highest consideration," &c.

Ah, gentlemen of the minority, it comes with poor grace to stand here and defend the alleged justice and infallibility of that court-martial system which you yourselves impeach.

Sir, the same judgment that was unanimously pronounced in the Dunlap case by our respected committee should have been pronounced in the Fitz-John Porter case:

It lacks all the essentials of validity, and amounts to little more than a stain upon the military record of the party convicted.

Mr. BROWN, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. RAY, of New York. Yes, sir; although I would rather proceed without interruption.

Mr. BROWN, of Pennsylvania. Does not the gentleman know that in the case of Myron E. Dunlap the whole examination was *ex parte*, and that the defendant never appeared to vindicate himself at all?

Mr. RAY, of New York. I know it was a trial before a court-martial; and I know this committee unanimously say a most flagrant wrong and outrage were committed, and therefore I say it is with poor grace the committee come here and say, some of them, on the floor of this House, that the judgment of the court-martial in the Fitz-John Porter case should not be corrected or questioned by this Congress.

Mr. BRUMM. Was that the same court-martial that tried Fitz-John Porter?

Mr. RAY, of New York. No, sir; I am speaking of the court-martial system. I say all courts-martial are presumed to be honest and fair and to proceed justly.

The gentleman from Michigan talked long and very loud of the legislative, judicial, and executive branches of our Government and of the untold dangers of allowing the legislative body to trespass upon the prerogatives of the judicial. He argues that the court-martial is a part of the judicial branch of our Government. Sir, I was in the war. It was my fortune to march under the gallant and dashing Sheridan,

in Emory's corps, Dwight's division, and the brigade finally commanded by the old veteran General Beale, of Maine; for nine months I shared his tents, was under his eye, drew his orders; and from service under those men I gained some knowledge of military life; I gained some knowledge of military law; I became familiar with courts-martial. Since that time I have been actively engaged in the practice of the law in the civil and criminal courts of the State and of the United States. Sir, I have both prosecuted and defended men for every crime known to man; I have studied the Constitution and the statutes, but now for the first time I am told that a court-martial is a part of the judicial system of our country. I now for the first time learn that the rights and liberties of the people are in danger because the Congress of the United States, the immediate representatives of the people, seeks to reverse the finding of a court-martial, the most arbitrary body of men that ever has assembled or ever can assemble.

The point that I was making yesterday in regard to the judicial status of a court-martial was not that it does not perform quasi-judicial functions authorized by Congress, but that they are not courts named in the Constitution. They are authorized by the act establishing the Army Regulations, and hence, being created by Congress, are subject to the control of Congress, which has the right to annul their proceedings, while I contend that in the case of the Supreme Court it would be unconstitutional for Congress to pass any act setting aside its judgment or decree. In this sense and to this extent I assert that courts-martial form no part of the constitutional judicial system of this country. Their jurisdiction extends simply to violations of the military law.

Sir, I suppose a court-martial to be a necessary adjunct of the army, a means provided for the enforcement of military discipline, but I assert that it forms no part of the judicial system of the government of this or of any other country. From its decision there is no appeal, and for its errors there is no court of correction. In it and about it there is no law but the arbitrary will of its members.

Sir, I have no fear for the future of this country as long as Congress may protect its citizens against the arbitrary judgments and decrees of military courts; but if the day ever comes when it is denied that right, farewell to life, liberty, or the pursuit of happiness.

Sir, when this Congress shall be deprived of the power to protect and relieve its citizens from outrage and wrong perpetrated by military tribunals, whether "august," as the gentleman from Michigan terms them, or December and January, acting under orders from the Secretary of War, as was the court that tried and most unjustly convicted Fitz-John Porter, then farewell to the boasted pride and glory of free institutions.

If the civil is to surrender to the military, if nine of our brigadier-generals are superior to the decrees of the fifty millions of our people directly represented in Congress, then haul down the Stars and Stripes, tear up the Constitution, and proclaim the cannon king. Sir, our army courts-martial derive their power directly from Congress; to Congress must they respond.

Sir, the gentleman forgot himself, as he did when he proclaimed that Fitz-John Porter was "guilty" because, forsooth, he obeyed not the mandate of a specter. Still more was I surprised when I learned from the gentleman from Ohio that Napoleon knew nothing of military law, when I learned that all these questions are regulated by statute, and that because, forsooth, there is no statute giving a general in the field a discretion as to the time and mode of obeying an order when not under the eye of his superior, therefore no such law exists.

Sir, there is the statute law and the common law, and there is the military code and the common law of military life; and there is no statute that is in derogation of the great rule practiced by Alexander and Cæsar, laid down by Bonaparte, and followed by Grant, Sherman, Sheridan, Thomas, Rosecrans, Slocum, and Fitz-John Porter. That rule is:

A military order requires passive obedience only when it is given by a superior who is present on the spot at the moment when he gives it. Having then knowledge of the state of things, he can listen to objections and give the necessary explanations to him who is to execute the order.

Says the Duke of Wellington:

It may frequently happen that an officer receives an order which, through circumstances unknown at the moment of giving it by him who gave it, is impossible to execute, or the execution of which would be so difficult or so dangerous that there would be a moral impossibility to conform to it. In a case of this nature Major-General Wellesley would be very far from wishing to prevent detached officers from acting freely.

ARTHUR WELLESLEY.  
(*Depuis Duc de Wellington.*)

Says the Archduke Charles, in speaking of such a situation:

Wartensleben had the right not to execute it; the Archduke Charles, then near Pforzheim, did not know his situation when he gave him the order.

More than twenty years have passed since Maj. Gen. Fitz-John Porter was thus court-martialed, dismissed the service of the United States, and forever disqualified from holding any office thereunder.

The country was then laboring under a high degree of excitement; the one-half was arrayed in arms against the other half, and the reputation of no man, whether in or out of the military service, was safe from the breath of suspicion. Men of character and ability were put in high place the one day only to be removed and disgraced the next. That general was fortunate indeed who was spared the command of an army during the first year of the war of the rebellion. Even Grant and Sherman, who afterward led our armies to final and complete victory, were traduced in public and private circles and through the public press. Grant was published as a drunkard, and, almost with the sanction of the Government, Sherman was proclaimed "a lunatic." We are told that the South would not, could not, dare not fight. The rebellion was to be crushed in thirty days, and the cry "On to Richmond" rang through the land.

The Bull Run disaster in July, 1861, was charged as the result of cowardice and mismanagement, and it was openly stated that the Union army ran away from a beaten and discomfited confederate army.

The army headquarters were surrounded with eager correspondents, who published to the world the anticipated movement of troops, and every country editor resolved himself into a commanding general or a committee on the conduct of the war. Brilliant and successful battles were fought in the newspapers and the public bar-rooms, and advice and counsel flowed freely from men who never saw a battle even "afar off." All this criticism and distrust was intensified when, in the spring of 1862, the army of General McClellan was repulsed before Richmond and that brave general, instead of being upheld by the strong arm of the Government, was left with the best army of the nineteenth century unsupported on the banks of the James.

On the 26th of June, 1862, Major-General John Pope, an officer who had won distinction in the Mexican war and at Island No. 10, on the Mississippi River, was assigned to the command of the Army of Virginia, an army of about 43,000 men, and late in July he took the field and advanced toward Richmond.

On the 14th of July it had been the misfortune of General Pope to

issue an address to his army, in which, after contrasting the armies of the East with those of the West, and to the disadvantage of the former, he proceeded as follows:

Meantime I desire you to dismiss from your minds certain phrases which I am sorry to find much in vogue among you. \* \* \* I hear constantly of taking strong positions and holding them, of lines of retreat and of bases of supplies. Let us discard such ideas. \* \* \* Let us study the probable lines of retreat of our opponents, and leave our own to take care of themselves. Let us look before us, and not behind. Success and glory are in the advance. Disaster and shame lurk in the rear.

This sounded well on paper, but it worked badly in practice. Within the next forty days General Pope found not only "shame and disaster" lurking in the "rear," but Stonewall Jackson, with the flower of the confederate army. He had no base of supplies to hear about, for Jackson held the "base" and his army was in full possession and enjoyment of the "supplies."

Pope must have been astounded when he learned on the morning of the 27th of August that Jackson was in his rear, and that the supplies of his army had been captured or destroyed. But he did what he could to retrieve the disaster, and the active and wily Jackson having slipped away, the army was concentrated, or ordered to concentrate, at Bristoe.

Porter, with his corps, was at Warrenton Junction, and on the evening of the 27th General Pope sent him a written order to move that night, or rather at 1 a. m. on the morning of the 28th, to Bristoe Station, so as to be there by daylight of the 28th. He announced in the order that Hooker had had a severe action with the enemy, who had been driven back, and that the enemy was retiring along the railroad. Haste was urged, not on the ground that the army was in any danger, nor that a battle was imminent, but for the purpose of following a retreating enemy and clearing the country between Manassas and Gainesville.

#### ORDER FOR NIGHT MARCH.

#### HEADQUARTERS ARMY OF VIRGINIA.

*Bristoe Station, August 27, 1862—6.30 p. m.*

GENERAL: The major-general commanding directs that you start at 1 o'clock to-night, and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the railroad trains to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General Pope.

GEORGE D. RUGGLES,

*Colonel and Chief of Staff.*

Maj. Gen. F. J. PORTER,  
*Warrenton Junction.*

This order reached Porter about 10 o'clock the night of the 27th, the messenger having been over three hours on the way, a distance of ten or twelve miles. Porter's army was worn out with constant and hard marching and want of supplies. The night was dark, moonless, and the sky overcast. It rained some during the night. The road to Bristoe was narrow, choked with the trains of the army, cut with narrow streams, unbridged, and upon the railroad track, along which the army might have moved, trains were running all night, making it impossible to move in that way. The evidence shows beyond the shadow of dispute that the narrow dirt roads were full of moving wagons all night,

and even the next morning it was impossible to move with any celerity on account of these obstructions.

Upon the receipt of that order Porter showed it or read it to his generals, and said that it "must be obeyed." They (Generals Morell, Sykes, and Butterfield) urged the impossibility of carrying out the order at the hour specified, and pointed out the reasons that made a delay not only judicious but wise and necessary. Influenced by their judgment, and at their solicitation, Porter postponed the execution of the order for two hours, and directed that the army move at 3 o'clock in the morning instead of at 1. He at once sent notice of this action to General Pope.

Mr. STEELE. Will the gentleman from New York allow me to ask, who gives that testimony?

Mr. RAY, of New York. Who gives that testimony? It comes directly, sir, from the mouths of General Morell, General Sykes, and General Butterfield; and I will call your attention to it in a minute so that you can not dispute it.

This delay, under these circumstances, constituted the basis for the first specification under the first charge made against General Porter. It will not be necessary to spend much time in the consideration of this specification. It was charged that, being in the face of the enemy, General Porter then and there disobeyed the said order. The court-martial pronounced him guilty, and we are called upon in effect to pass a bill that shall pronounce him "not guilty." A board of officers, known and honored alike for their impartiality, skill, bravery, and devotion to their country, and consisting of Generals Schofield, Terry, and Getty, have fully examined the record and heard all the evidence over, with such new and additional evidence as could be produced on both sides, at a time when the angry passions and prejudices of men had subsided, and have pronounced a verdict of "not guilty." In that verdict the Senate of the United States at its last session concurred. General Grant, the best military authority on the continent, and probably in the world, has passed his judgment to the same effect.

It is true that men, actuated either by base motives, or a hatred of General Porter, or lingering passion or prejudice, have intimated that General Grant gave his opinion in exoneration of General Porter as a bid for the passage of a measure to place him on the retired-list of the Army.

For such base insinuations I have but scorn; for their authors, pity. Can men have the conscience to charge Grant, lately General of our armies and President, with bribery; with selling his opinion?

Sir, I refer to these things, not that they are conclusive upon us, nor that they ought to move us to action on this bill in opposition to our judgment, but that we may duly consider them and give them such weight as they are entitled to; that we may be led to read and investigate; that we may proceed in the light of the facts, and not be controlled or hampered by our preconceived notions of the case, or by any false notions that because the court-martial that convicted Porter was respectable, that because the immortal Lincoln approved the sentence, that because the loved and lamented Garfield constituted one of the court and was supposed to adhere to that sentence, that therefore we ought to oppose this bill. Such considerations are unworthy of fair and honest men. We have no right to assume that Garfield if living would oppose this measure, nor that Lincoln if he had survived the pistol of the assassin would do other than justice to a brave man in the light of the new evidence that came from witnesses not attainable on the original trial.



Mr. STEELE. Will the gentleman allow me one question?

Mr. RAY, of New York. I have not time enough to stop to answer questions. When I occupied the floor last evening, as I see by looking at the minutes taken, nine-tenths of my time was occupied in answering questions of gentlemen and listening to their remarks instead of their listening to mine. I must therefore decline to be further interrupted. [Applause.] I think I ought to have the right to talk just a little when I am given an hour to address the House.

Mr. STEELE. I will say to the gentleman that I was interrupted a number of times when I was addressing the committee, and the gentleman has had his time extended.

Mr. RAY, of New York. At 3 o'clock in the morning, and long before it was light enough to see, Porter's corps was put under arms and took up the line of march; but in the darkness it was found impossible to make much if any headway, and much confusion ensued. Two officers who passed over the road that night testified that they found it impossible to keep the road, and that they stumbled upon obstructions which they could not see until they were upon them. It is, therefore, apparent to any candid man that Porter's army could not have been moved to Bristoe during the night without such straggling, confusion, and exhaustion that it would have been worthless upon its arrival. These things were known to and appreciated by Porter, Morell, Sykes, and Butterfield; they were unknown to Pope.

It has been asserted here that when that order was received General Porter sent for his generals and held with them a council of war as to whether or not the order should be obeyed. The injustice and the folly of such a charge is fully exposed when we turn to the evidence of Capt. Drake De Kay, who said: "I arrived, as I have stated, about half past 9 o'clock at his tent, and found General Porter and two or three generals there—General Sykes and General Morell, and, I think, General Butterfield, though I am not sure whether he came in afterward or not. I handed General Porter the order, which he read and then handed to one of his generals." And yet gentlemen say he concealed it.

Mr. HERR. Not that order.

Mr. KEIFER. Will the gentleman allow me?

Mr. RAY, of New York. I can not stop now for interruptions. You come down here like bees after honey. I have not time.

Mr. KEIFER. The gentleman does not want to say that I said that order was concealed: What I said was that the 4.30 order was concealed.

Mr. RAY, of New York. I said no such thing. I said that had been asserted on this floor. I did not refer to the gentleman from Ohio [Mr. KEIFER].

Mr. STEELE. Allow me to ask the gentleman—

Mr. RAY, of New York. If these interruptions continue I can only repeat what I said yesterday:

Truth crushed to earth shall rise again;  
The eternal years of God are hers;  
But error, wounded, writhes in pain,  
And dies among his worshippers.

Mr. STEELE. We will give you all the time we take up in interruptions.

Mr. RAY, of New York. On the march that morning Porter used great personal exertions to get the obstructions out of the way, and riding on in advance reported to Pope two hours (8 o'clock) before the arrival of his column. Pope made no complaint at the delay, nor did he seem to entertain the slightest idea that his order had been disobeyed. If he did, it

was his duty as a loyal soldier and a faithful general to have removed Porter from the command. Indeed, he says that he made no complaint, and "the necessity had passed away." It is a conceded rule of military law that a corps, division, or brigade commander at a distance from his superior is clothed with a discretion as to the time and mode of obeying an order, provided he is in possession of facts which make a literal compliance with the order impracticable or impossible. This discretion was used by Porter on this occasion, and it worked no disadvantage to the success of Pope or of the Union Army. Let me ask, if the campaign had terminated in success would complaint have been made?

General Sykes, whose subsequent military career was so brilliant, said :

We talked it over among ourselves and thought nothing was to be gained by moving at midnight or 1 a. m. rather than at dawn. I was very positive in my opinion, and gave General Porter my reasons. They were, first, that a night march is always exceedingly fatiguing and injurious to troops; that my command had already marched from twelve to fourteen miles that day; that I thought the darkness would cause confusion; that a constant stream of wagons had passed ahead of us from the time my command reached Warrenton Junction until dusk; and, above all, I thought that as but two hours, or three hours at most, would elapse between 1 o'clock and daylight we could make the march in much better order, and march more rapidly by starting at dawn than if we started at the hour prescribed. I might add that General Porter made his decision not to move until daylight, and I took it that his decision was based upon his own experience and upon the opinions of the three general officers in his corps next in rank to himself.

He also says that in the morning—

Before I directed the advance to be sounded I sent an aid-de-camp to find the road, so as to lead the column upon it. He returned in a short time and told me that the darkness was so great that he could not distinguish the road. He also told me that he was assisted in that search by several soldiers. As I anticipated, we ran upon this train of wagons within two miles of my camp. They encumbered the road for miles. Myself and staff officers were constantly engaged in opening the way for the head of my column. On several occasions I had to take my mounted escort and place them on the road with drawn sabers to prevent the wagons from closing up any intervals that occurred. I do not think that in my military life I ever had so much trouble with a train as I had that day. About two miles from Bristol Station a stream crossed the road. On the Bristol side of the stream General Porter and his staff officers directed and compelled all their wagons to be parked so that none of them should precede my troops. That order was carried out. I was compelled to halt the head of my command on the Bristol side of that stream for fully an hour in order that my rear brigades might be united with the brigade in advance, and the cause of this separation was the train or trains on the road.

He then says that "nothing whatever" would have been gained by starting at 1 o'clock in the morning, and that he had been in continual intercourse with General Porter during the month of August, and that he never saw in him any slackness to do his duty nor any evidence of a disposition to fail his commanding officer or his country, and that he pushed his command vigorously from Falmouth to the scenes of the actions of the 29th and 30th. To the same effect, only more positive, is the evidence of General Butterfield and General Morell, as well as of a large number of officers of lesser rank. In the face of this evidence from officers of the highest character and standing, how shallow, unjust, and unfounded the charge that General Porter was guilty of any violation of military law by this exercise of discretion, urged and approved as it was by the generals of his corps and acquiesced in by General Pope himself.

It has been claimed during this discussion that Porter might have marched that night; that Sigel and Ricketts marched that night and found no difficulty. How unjust such statements on the floor of this House are is fully shown when we glance at the testimony of General McDowell given before his board of inquiry. He says:

To make sure of this I ordered the troops (Ricketts's) to march at 2 a. m.;

\* \* \* and notwithstanding I had seen him on the morning of the 28th before he left, and had urged on him personally to march immediately and rapidly, and had shown him General Pope's order to me requiring this to be done, yet his advance was so slow that the note written to me by Captain Leski at Thoroughfare Gap at 10.45 a. m. and received by me near Gainesville and then sent to General Ricketts, reached him just this side of Buckland Mills, a distance of about three miles from his bivouac of the night before. His division had been on their feet since 2 a. m., over nine hours, and in that time had not gone twice the length of the division front from where they started.

He was speaking of General Ricketts, one of the generals who sat on the court-martial that tried Porter, and who was one of the court that pronounced Porter guilty of disobedience of the order to march that same night at 1 a. m. General Ricketts had only about two hundred wagons on the road, a fine turnpike, while there was on the narrow road in front of General Porter two thousand or three thousand wagons. In the face of this testimony, coming as it does from the lips of General McDowell, may I not ask this House to say that General Porter and his division commanders adopted the wisest and most judicious course?

It is the duty of a general ever to keep his command in condition to meet the enemy when he has reason to think that an enemy is near, and to knowingly wear them out and disintegrate the command would be deserving of most severe censure. Every person who has marched with a fatigued army in the night knows the utter impossibility of preventing straggling. Porter's corps was under arms and attempting to move at 3 a. m., and had the obstructions not prevented he would have been at Bristoe shortly after daylight. As the enemy had gone, as the order to move stated it was retreating, there was no necessity for the presence of Porter.

But the gentleman said that it was the order to be at Bristoe at daylight, and that that was the essence of the order; that it was the duty of Porter to have started immediately, if necessary, to reach Bristoe at daylight.

I assert that it was the duty of Porter to act judiciously and wisely, promptly and obediently, but to take care of his command, and see that it was at Bristoe with its commander in a condition for service. Gentlemen have entirely ignored the fact that when it was determined to delay the march until 3 o'clock, information of the determination was at once sent to General Pope by two or three of Pope's staff officers, who started at once, and that they were seven hours on the road, and were so delayed by the obstructions that, mounted as they were, it was 7 o'clock in the morning when they reached Bristoe. This shows how futile would have been the effort to move the army. It should also be remembered that Porter had no cavalry whatever, and the impossibility of infantry clearing a narrow road of an army train in the night is so plain that argument is unnecessary. When the gentlemen reflect they must acknowledge their error.

The evidence of the surgeon, who says that at noon, or just after noon, as the corps of Porter was entering Bristoe, he heard Porter say, "Go tell Morell to halt his division; I don't care a damn if we don't get there," has no weight with me. Faxon says they were then at Bristoe. It was the very place to which they were ordered to march, and the only place. Porter had reported to Pope two hours before that and had received orders to remain there that day. The remark, if made, had no reference to getting to Bristoe. They were "there," and under orders to remain "there."

Pope having said to Porter that he had beaten Jackson, who was retreating up the railroad, and only intimating that haste was required for the purpose of following a retreating enemy, at once sent a dispatch to McDowell directing him to march at daylight upon Manassas

Junction, in which he said: "We had a severe fight with them to-day, driving them back several miles along the railroad. If you will march promptly and rapidly at the earliest dawn of day upon Manassas Junction we shall bag the whole crowd." Is there any intimation here that Hooker was in danger or that any peril was impending? To both McDowell and Porter he asserts that the enemy is "retreating," but to Porter he does not even intimate that if he will hurry up the enemy can be bagged. He clearly left Porter to infer that he wanted his corps in the morning for the purpose of following a retreating enemy and no other, and it justified Porter in obeying the order in such a manner as should bring the troops on the ground in condition to be of some service if he was satisfied that the arrival would not be delayed by the postponement of the hour of departure.

On the court-martial General Pope testified that his main reason for ordering Porter to march at 1 o'clock in the morning and be at Bristoe at daylight was that Hooker was substantially out of ammunition, leaving the court to infer that a mighty peril was impending over that army when the night order was sent Porter, and that his presence at daylight was supposed to be necessary for the salvation of that army. This has been urged as a reason why this bill should fail and Porter stand condemned.

Now, sir, it turned out on inquiry that Pope did not learn of Hooker's need until about three hours after the order to Porter was sent.

Sir, I ask, was his evidence honest and truthful? Was it just to Porter? Can we, as honorable men, regard it? The star of Pope has set forever; Porter's is emerging from the cloud of perjury and calumny that obscured it, and shall guide him to higher fields of glory.

In point of fact there was no necessity for the order when it was given, or if there was, such necessity had passed away long before daylight. No move of consequence was made by Pope on the 28th except to move the main portion of his army to Manassas; and this move, it is now conceded, resulted in no good, but ultimately worked much harm. Porter remained all day at Bristoe. The only act upon which was based a charge of disobedience of this order was the delay of two hours in marching. In the light of the facts that Porter was allowed to remain in the command of his corps until the termination of Pope's campaign, and thereafter until after the battle of Antietam and the removal of McClellan in November, during all of which time no charge had been preferred and no court-martial convened, and that it was proved by Colonel Ruggles, Pope's chief of staff, that Pope told Porter that his explanations of the transactions between August 26 and August 31 were satisfactory, no fair mind can conclude otherwise, in my judgment, than that the charge was made to cover the defects of Pope's campaign and transfer the responsibility for its failure from his shoulders to those of the person he was determined to sacrifice in order to justify in the eyes of the country his failure in that most ill-managed and disastrous campaign, while at the same time he should revenge the criticisms of Porter on his military capacity. Otherwise I can not conceive why the charges should have been delayed until McClellan's removal.

Nothing had been discovered in the mean time that threw any new light upon Porter's conduct. These charges were made and signed by a member of General Pope's staff, General Roberts, who hated Porter and was an active defender and partisan of General Pope. His malice was shown in his evidence. If General Pope believed the charges, why did he not make them? Why were they deferred? The answer is plain; if they failed he was not answerable; if they were sustained his object was gained, his revenge satisfied. While McClellan and Porter

were in command he knew it would be useless to prefer them. But when McClellan had been superseded he embraced his opportunity.

On the trial at the court-martial Pope swore in substance that he had nothing to do with the charges or the prosecution; "I do not know who made the charges." After the conviction he wrote:

I considered it a duty I owed to the country to bring Fitz-John Porter to justice.  
\* \* \* With his conviction and punishment ended all official connection I have since had with anything that related to the operations I conducted in Virginia.

If this charge stood by itself it would fall of its own weight to the disgrace of its author. On the trial before the court-martial significance to that delay was attempted to be given by the evidence of Lieutenant-Colonel Smith, who, after stating certain expressions which he claimed General Porter made to him on the 28th of August, while at Bristoe, was allowed, contrary to and in violation of all rules of evidence, to characterize the remarks and state what they appeared to him to express. The witness said:

Those remarks were made in a sneering manner and appeared to me to express a great indifference.

He was then allowed to state what he told General Pope thereafter, not in the presence of General Porter, and he testified as follows:

After my tent was pitched and I had something to eat I went over to General Pope and reported to him briefly what I had done in regard to the ammunition. I then said to him, "General, I saw General Porter on my way here." Said he, "Well, sir," I said, "General, he will fail you." "Fail me," said he, "what do you mean? What did he say?" Said I, "It is not so much what he said, though he said enough; he is going to fail you." The witness then goes on to state that he told Pope he was certain that Fitz-John Porter was a traitor, and that he would shoot him that night so far as any crime before God was concerned if the law would allow him to do it.

The admission of this conversation, the truth of which I deny, should of itself reverse Porter's conviction. The admission of such testimony, contrary to all sense, reason, and law, would reverse the conviction of a chicken-thief in any of the courts of this country, and I am frank to say would lead me to support this bill irrespective of all other questions. A man charged with crime should be convicted, if convicted at all, upon legal evidence and because of some act done by him with guilty intent, and that intent should be shown by acts or declarations of the accused and not by declarations of other persons not in his presence. And it is contrary to the rules of evidence to allow a witness to characterize even the acts and declarations of the accused; much less may he be allowed to state the impression made upon him by those acts or declarations. Colonel Smith may have been a man of the most tender susceptibilities and of the highest patriotism and entitled to the highest credit, but I am frank to say that a man who will carry the spirit of murder in his bosom and announce that he would execute his base design were it not for fear of the law, and that simply because another man had sneered in a manner that appeared to him to "express a great indifference," has no credit with me when I come to consider his evidence.

The judge-advocate, in reviewing the case and in speaking of the evidence of this man Smith, said:

It was physically impossible for the witness to produce the manner, the tone of voice, and the expression of the eye, and the play of the features which may have so much influenced his judgment; yet these often afford a language much more to be relied upon than that of the lips. He could not hold up before the court for its inspection and appreciation the sneer of which he spoke, and yet we know that a sneer is as palpable to the mental as a smile is to the natural vision. It is a life-long experience that souls read each other, and there are intercommunications of spirits through instrumentalities which, while defying all human analysis, nevertheless completely command the homage of human faith.



Great crimes, too, like great virtues, often reveal themselves to close observers of character and conduct as unmistakably as a flower garden announces its presence by the odors it breathes upon the air.

All of this was fine and poetical, but nonsense as applied to this case notwithstanding. I know not what kind of nor how much "spirits" this man Smith had communed with on the occasion when he went to Pope with murder in his heart, but this I do know, that his soul had not read Fitz-John Porter's soul, and that while the sneer may have been palpable to the mental vision of Smith, we have no evidence of the number of spirits nor of the kind, good or bad, ethereal or liquid, that may have been dancing through the focus of that vision. The true character and revengful spirit of this man Smith may have and probably did reveal themselves unmistakably to General Fitz-John Porter by the odors he breathed upon the air, thereby producing the sneer of which he spoke.

In my judgment the whole evidence of Thomas C. H. Smith, aid-de-camp on the staff of General Pope, was a "vision" without substance, and of the most evanescent character. Striking this evidence out of the case, as we ought, and we have nothing that by the most strained construction can be tortured into a spirit of insubordination.

I deny that any expression in any of the letters and dispatches indicate any animus or intent to disobey. That service under Pope was distasteful to Porter no man can question. That he distrusted Pope's military capacity—a feeling that was shared by the army, and which subsequent events justified—I am not to dispute. That he had a "contempt for Pope" I do deny. It is disputed by Porter's every act and deed. There is nothing in the record that shows disrespect for the man as a man. He was not tried for disrespect to his superior officer.

After that campaign Pope was retired from active service at the front. The Government itself fully justified Porter's estimate of the man—Pope was brave, energetic, self-confident, but incapable of managing an army. Such is the verdict of history.

Porter saw that the Army of Virginia was "wandering around loose," its whereabouts unknown to Pope; that it was being marched to death; and he incautiously, indiscreetly expressed his distrust.

General Burnside saw nothing in these dispatches to censure or incite distrust, and he so testified; and he also said that during all the friendly and extremely intimate relations he held with Porter he never heard him speak an unkind word of General Pope, and so testified all of Porter's intimate friends. Is it conceivable that General Porter would have unbosomed and expressed a hatred, disrespect, and disloyalty to General Pope to Smith and Roberts, members of Pope's military household, who would have been sure to expose him, while to his own military family and friends he always spoke of him kindly and respectfully? Such a course of conduct is not probable nor reasonable, and the evidence of Smith and Roberts taxes our credulity to the point of disbelief.

Men do not become great criminals all at once, and the military training, long-devoted service, conspicuous bravery, and devotion of Porter give the lie to the insinuation. He was fresh from fields of fame, suffering from debility contracted among the swamps of the Chickahominy and in the service of his country, and still begrimed with the smoke and flame of the enemy's guns. Is it to be supposed for a moment that Sykes and Morell and Butterfield had imbibed the same spirit of insubordination? If so, they too should have been summarily dealt with, for they were *particeps criminis*. They urged and advised and approved the actions of their chief.

On this question of animus I should be unjust to myself, to Fitz-John Porter, and to the country were I not to invite attention to the most flagrant violation of the rules of evidence on that trial. The Government put in evidence the dispatches of the 27th, written before any alleged disobedience of orders, for the avowed purpose of showing animus. General Porter offered other letters and also acts immediately preceding and following the alleged disobedience and misbehavior, showing great zeal and activity in behalf of General Pope, to show want of animus, claiming, justly and legally, that his whole conduct and declarations should be considered on that question as part of the *res gestæ*. This was ruled out. What! Prove the conversations between Generals Pope and Smith, not in the presence of Porter, nor of any one, as showing animus, and not allow him the poor privilege of proving his own concurrent acts and orders, which were a part of the movement, to rebut such presumptions!

There is not a lawyer upon the floor of this House but knows the error would reverse the finding in any criminal court on the face of the globe. No wonder a storm of indignation burst over the country that produced a partial reversal of that ruling, but the court disregarded the evidence nevertheless. I refer the House to the official record and the protest filed by General Porter on the trial.

We come now to the consideration of the next specification contained in the charges, and which is more serious in its nature, if true. It charges in substance that on the 29th of August, Porter, having been ordered to move with the joint commands of himself and McDowell from Manassas towards Gainesville, until communication was established between the forces of Pope and those of McDowell and Porter, that then the whole command should halt, did then and there disobey the said order. The next specification charges in substance that Porter disobeyed an order to attack the right flank of the enemy, and which was issued at 4.30 p. m. of the same day, and that he retreated away and fell back from the enemy shamefully, &c. The orders are as follows:

JOINT ORDER.

[General Orders, No. 5.]

HEADQUARTERS ARMY OF VIRGINIA,  
Centreville, August 29, 1862.

Generals McDOWELL and PORTER:

You will please move forward with your joint commands toward Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike, and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own the whole command shall halt. It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so on account of our supplies.

I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall upon the enemy's flank and rear. I do not even know Ricketts's position, as I had not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts, and instruct him to rejoin the other divisions of the corps as soon as practicable. If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out.

One thing must be had in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day. My own headquarters will be for the present with Heintzelman's corps or at this place (Centreville).

JOHN POPE,  
Major-General Commanding.

4.30 ORDER.

HEADQUARTERS IN THE FIELD, August 29—4.30 p. m.

Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds. The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so on your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,

*Major-General Commanding.*

Major-General PORTER.

On the morning of the 29th Porter had moved, pursuant to orders from General Pope, from Bristoe on Centreville, and while on the march early in the morning of the 29th to that point Porter received the order first quoted, and known as the joint order. He immediately counter-marched, having passed Manassas, and took the road from Manassas to Gainesville.

On reading the joint order, we find three things, controlling ideas, that strike us with peculiar force:

First. It indicates that a battle against the combined forces of Jackson and Longstreet is to be avoided south of Bull Run.

Second. There is nothing said about any anticipated battle, but it seems to contemplate a concentration of the army only.

Third. It plainly implies that the army is to fall back that night (29th) or in the night behind Bull Run.

The order says:

I desire that as soon as communication is established between this force and your own the whole command shall halt. \* \* \* It may be necessary to fall back behind Bull Run or Centreville to-night. I presume it will be so on account of supplies. \* \* \* One thing must be had in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here (Centreville) by to-morrow night (30th) or next day.

In his orders, issued that same morning to Generals Heintzelman, Reno, and Sigel, who were to move on the Warrenton pike, he said:

If you find yourselves heavily pressed by superior numbers of the enemy you will not push matters further. \* \* \* The command must return to this place (Centreville) to-night or by morning, on account of subsistence and forage.

It is to be presumed that Porter knew the desires and the intentions of his chief so plainly expressed, and it is equally plain that on the morning of the 29th Pope did not intend to bring on a general engagement with the combined forces of Jackson and Longstreet. When they should combine, it is the plainly expressed intention to fall back behind Bull Run. It is also his determination to fall back behind Bull Run that night, or by morning, in any event.

In the light of these facts, which were partially concealed or wholly lost sight of on the court-martial, and which were never brought to the notice or knowledge of President Lincoln, we see how unjust was any criticism on the letter written by Porter expressing a determination to fall back on the evening of the 29th, and which was written before the 4.30 order was received. But as I stated, on receiving the joint order Porter at once moved for Gainesville. McDowell with his command was immediately behind Porter.

This move was made promptly upon receipt of the order, and the advance was continued until Dawkin's Branch, a small stream about two miles beyond Bethlehem church, was reached. Beyond this stream the enemy was discovered, apparently in force. Porter threw out skirmishers, deployed his advance, and made all preparations for carrying the hills beyond. That the army would have been engaged in a fierce and

sanguinary contest within a short time had not General McDowell at this time arrived upon the ground is beyond question and has never been disputed. General Porter was carrying out the order in its spirit and letter. General McDowell was the senior of Porter, and at once took the command. He at once, on viewing the situation, said to Porter: "Porter, you are too far out. This is no place to fight a battle." (See evidence of Colonel Locke, page 135, O. R.; of Captain Martin, page 141; of F. S. Earle, pages 417, 426.)

And this General McDowell does not deny.

Question. Try to recollect if upon that occasion you did not say to him in substance that he was too far in the front, and that the position in which he was was not a position in which to fight a battle, or anything to that effect?

Answer. I do not recollect.

Q. Will you say whether in consequence of a message or otherwise you sent a message to the accused with your compliments, telling him that you were going to the right and should take King with you, and that he, the accused, should remain where he was for the present, and if he had to fall back to do so on your left?

A. I do not recollect. (O. R. 87 and 88.)

They then rode over the ground together, and decided that it was impossible by extending to the right to connect with the forces of General Reynolds, who was upon the left of Pope and two miles or more away, and by nearest road four or five miles, and the intervening woods were impassable. McDowell's forces, fifteen thousand men, were then up with Porter's, about ten thousand or twelve thousand more, so that McDowell had on the ground and on the road along which he and Porter were ordered to move a force of at least twenty-five thousand men. It will be observed that this order was addressed to both, and that McDowell, being in command while on the ground, was in duty bound to see the order carried out. If the time had come when the command was to halt, as directed by the order, then a halt was proper. If circumstances had arisen that made a farther advance at that time impossible, impracticable, or unwise, it was within the province of General McDowell to suspend a farther advance and report the situation.

If such circumstances had not arisen, then it was the duty of McDowell to remain with Porter and press the whole force forward toward Gainesville. If such circumstances had not arisen, he had no right to divide the forces and march away with the larger portion. If it was the duty of Porter at any time that day before the 4.30 order was received to advance farther along that road in the face of the enemy, it was equally and more the duty of McDowell to advance along the same road. They both knew that the enemy was in their front. They both knew that the joint order contemplated an attack by their combined force on the flank of the enemy if it should be reached. They both knew that Pope's command was then engaged with the enemy on the Warrenton pike, two miles north of them. McDowell knew that if they were on the flank of the enemy and it was proper to attack, the larger the assaulting force the better—the more promise of success; and he must have known that if none but Jackson's command was in front of Pope that Pope had force enough to hold him in check, and that a force of twenty-five thousand men hurled upon Jackson's right flank must inevitably have resulted in his entire overthrow and probable capture.

It is plain to my mind that if any one disobeyed the joint order it was McDowell and not Porter. The order directed both, not one, to advance along that road, and when McDowell assumed the responsibility of taking fifteen thousand men, including King's division, which had been ordered to act that day under the command of Porter, and marched away, he relieved Porter from any further duty or responsibility

under that order. He left Porter in a position and situation not contemplated by the order, that is, unsupported by the forces of McDowell.

But it is plain to my mind' that the attack at Dawkin's Branch was suspended by the order of McDowell, because he knew of the arrival upon the ground of Longstreet's forces, and because he knew that they were facing the united forces of Longstreet and Jackson, the arrival of fifteen thousand men of Longstreet's corps having been reported some hours before. And he knew that if fifteen thousand of Longstreet's men had passed through Gainesville at 9.30 o'clock that morning on their way to Jackson that the balance of Lee's army was not far behind. He therefore knew that the joint order of Pope, in which he had assumed that Lee's army could not arrive on the ground before the night of the 30th or the morning of the 31st, was based upon a misconception, and that it was not wise for him to bring on an engagement in that exposed situation with the whole of Lee's army.

At any rate he knew that fifteen thousand fresh confederate troops were on the ground, and that their arrival was unknown to Pope when the joint order was issued, and that probably an attack by the divided Union Army upon the united confederates was not intended. In fact the order directed that nothing should be done that should operate to prevent the Army from falling back that night beyond Bull Run, where it was evidently the intention of Pope to meet the enemy when they should unite.

The orders for the 29th show on their face that a pursuit of Jackson, who was supposed to be retreating, was the only move contemplated for the day.

I am satisfied that McDowell left with the intention of passing up the Sudley Springs road and until he could connect with Reynolds's left; that he intended then to deploy to his left, while Porter should extend on his right, and thus connect the whole line; that he intended that Porter should remain where he was until that movement was completed, and that he so said. That Porter so understood and acted upon that understanding is beyond question. All that afternoon Porter's skirmish line was in the woods beyond Dawkin's Branch, and Colonel Marshall, an officer of unquestioned integrity, was observing the enemy. So near was he to the enemy that he could hear the tramp of the men and the commands of the confederate officers and the rumble of the artillery.

Now, when McDowell left, he left Porter free to act as the circumstances dictated he should act. McDowell had the right to remain on the ground and command the whole force; but he had no right to give orders to Porter that should control his action after he left. Therefore it is entirely immaterial whether, as McDowell put spurs to his horse and galloped away, taking King's division with him, in all 15,000 men, he said, "Put your forces in here," or as Porter says, and as two good reliable witnesses say, he said, "Stay where you are." Porter was tried and adjudged guilty of disobeying the joint order, not some disputed and vague order that McDowell may or may not have given.

Evidently McDowell thought that a battle ought not to be fought at Dawkin's Branch; evidently he did not expect that Porter would fight when he left him, at least until he should have connected with the left of Reynolds and closed the gap of two miles between the army of Pope and Porter's corps. If it were otherwise, is it not passing strange that McDowell passed on his four-mile march to join Pope and expressed no surprise that he heard not the guns of Porter on the flank of Jackson? Is it not strange that when he met Captain Pope with the order



from Pope directing Porter to move forward and attack Jackson on the flank at once he did not say, "Why, I gave Porter that order two or three hours ago," instead of saying "That it was an important order," as Captain Pope testified he did say?

No blame can be attached to Porter for not engaging the enemy up to the time that McDowell left. Up to that time McDowell was on the ground and had supreme command. I now repeat, that if it was not prudent and proper for McDowell and Porter to attack at Dawkin's Branch with twenty-five thousand men; it was not prudent and proper for Porter to attack with only ten thousand or twelve thousand men after McDowell left. There has been considerable dispute as to what occurred at the time McDowell left. It has been claimed that McDowell left imperative orders to attack at once. McDowell himself makes no such claim; all he claimed was that Porter was to attack at the proper time. All it is claimed that he said was, "You put your men in here." I assert that that time never arrived. McDowell did not come in on the left of Reynolds at all, but on reaching a point near the Warrenton pike he was ordered by Pope to another part of the field.

We now come to the great and important question involved in this case. All enemies and opponents of General Porter have substantially abandoned any claim that any great blame attaches to General Porter up to the time of the receipt by him of the 4.30 order, so called. It is claimed that he willfully and deliberately disobeyed that order, and that instead of attacking as ordered, or at all, he retreated.

That order is as follows:

HEADQUARTERS IN THE FIELD,  
August 29—4.30 p. m.

Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds.

The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank.

Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back do so on your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,  
Major-General Commanding.

Major-General PORTER.

It will be seen at a glance that if at the time of the receipt of that order General Longstreet with his corps, or any considerable part of it, was confronting Porter, the conditions provided by the order did not exist, and could not be complied with. If Longstreet was there with his army fronting Porter, then Porter's line of march did not bring him "on the enemy's right flank," nor anywhere near it. It brought him in the immediate front of a largely superior force of the enemy, posted upon a ridge, with thick woods intervening. By that order Porter was to do not one thing, but two things: "Push forward into action at once on the enemy's flank, and if possible his rear, keeping your right in communication with General Reynolds."

To attack on the flank or in the rear was absolutely impossible, and to keep in communication with Reynolds was also impossible. He had no communication to keep; all the afternoon he had been sending men to his right towards Reynolds, trying as faithfully as possible to establish communication, but he had failed. The men had either been driven back by the enemy or captured. It is a very important question when that order was received. While it is clear to my mind that Porter would have been fully justified in not attempting to obey it, inasmuch as to attack on the right flank and rear was impossible without making a long détour to the left in the presence of a superior force

of the enemy advantageously posted, a movement condemned by all military men as well as by common sense; and also inasmuch as Porter knew what Pope did not, that Longstreet and Lee were there on the ground, yet we will waive the point, and see whether any attack could be made. A night attack upon an unknown enemy, and upon broken, wooded, and unknown ground, would be condemned by the school-boy. Yet such was the only attack Porter could have made if the order was received at the time he and his witnesses state, namely, sundown or after.

General Sykes, whose veracity no man has ever questioned, said that he was present when Pope delivered the order; the order was received as near sundown as he could remember. (Page 177, O. R.): "Certainly within a little before sunset or after." Colonel Locke says that it was delivered "between sundown and dusk" (page 136, O. R.). Captain Monteith says "it was about sundown" (page 127, O. R.). Lieutenant Weld says it was "after sundown" (page 130-132, O. R.). Lieutenant Ingham says it was "after sunset" (page 199, O. R.). Captain Randol: "It was growing dark. It was between 6 and 7" (page 93). Six disinterested witnesses, all to the same point and all unimpeached and unimpeachable, say that this order was received at so late an hour that an attack was not only impracticable but impossible.

These witnesses were contradicted before the court-martial by two witnesses only, one Captain Pope, a relative of General Pope, the other his orderly, Duffee. Pope and Duffee think they delivered that order by 5 o'clock on the 29th. They had no watch; they made no memorandum; and they both confess they only guess at the time from the time they think it took them to go to Porter's headquarters, and they fix the date of starting by the date of the order (4.30) and by an estimate of the distance traveled. Pope said he had no recollection of the time it took him to deliver the order (567, O. R.).

There is no evidence that the writing of the order was completed at 4.30, nor that it was delivered to Captain Pope immediately after it was written. The distance was four or five miles, over a rough, broken, and to them unknown road. After the court-martial, as was proved by two reputable witnesses, Pope confesses that he got lost on the way and did not deliver the order until nearly dark.

It is proved beyond dispute that he had to be shown the way back. On the hearing before the board of inquiry a new witness was produced, Archelaus Dyer, who claimed that he accompanied Pope and Duffee on that occasion. He had been recently over the road with Smith, the soul-reader, and he testified that when he went with them to deliver that order he passed a certain house with a peculiar roof, and that he passed in the road on a certain side of that house; that they went to Bethlehem church, where they found Porter in his tent, and that he saw Porter go behind his tent; that this church was of brick, with a steeple, &c.

It was proved that the house he described was not built until the year after the second battle of Manassas, that the road then passed on the other side of that house, that the church never had a steeple or bell-fry, and that at the time described it was a tumbled ruin. It was also proved that on that day Porter did not have a tent; that he lay under a tree when the order was delivered; a fact that Captain Pope himself had testified to. I am also informed by a gentleman, whose word I shall never question, that on the hearing before the board of inquiry two other men were then produced by this Thomas C. H. Smith, the soul-reader and sweet communer with spirits (the nature of which we are not informed), who, after the cross-examination of Dyer, said to

Smith, "You know he was not there and that we were not there, and we are not going to swear to any such thing."

To be mild, I will only say that if the testimony of Captain Pope is half as wild, unreliable, and bombastic as were the reports of General Pope, it is not entitled to a feather's weight. And as to the witness Dyer, he stands upon his own evidence as a self-convicted perjurer. Every circumstance supports the claim that this 4.30 order was not delivered until sundown or after. And if there were any doubt on the question, it is our duty to give General Fitz-John Porter the benefit of that doubt, as in the law I am bound to do.

It is true that witnesses are to be weighed and not counted; that it is what satisfies the mind and conscience and convinces the judgment that should guide our conclusions in giving our votes in this case; and it is because of these rules that I am convinced that duty to myself, my country, and my God demands that I support this bill.

We sit here as the court of appeals in this case, the only court that can right the great wrong done, reverse the unlawful judgment of the court-martial, and set aside the mistaken verdict. If we honestly, faithfully, and conscientiously discharge that duty, relying upon the evidence, and hesitate not to reverse the action of that court if any of its material proceedings were unjust and unlawful, or if upon newly discovered evidence we are convinced that the court arrived at a wrong conclusion or one it would not have reached if the whole evidence had been produced, we shall have done honor to ourselves and this Government, and we should not by such action cast any reflection upon that court or any member of it.

If in this spirit we approach the vital question in this case, divesting ourselves of all passion, prejudice, and preconceived erroneous impressions, it seems to me that the verdict of this House must be unanimous.

It is undisputed that on the receipt of the 4.30 order General Porter immediately ordered an attack. Colonel Locke says (page 136, O. R.):

He [referring to General Pope's messenger with the 4.30 order] handed the general a note, which I afterward ascertained was an order for him to attack the enemy at once. He (General Porter) very soon afterward ordered me to ride up to General Morell and direct him to move forward and attack the enemy immediately, and to say that he would be up himself right after me.

This he did. But before Colonel Locke went up Porter had sent Morell a written order to attack, as General Morell testifies (page 147, O. R.):

A little while before sunset, just about sunset, I received an order in pencil from General Porter to make disposition to attack the enemy. That order spoke of the enemy as retiring. I knew that could not be the case from the reports I had received and also from the sounds of the firing. I immediately sent back word to General Porter that the order must have been given under a misapprehension, but at the same time I began to make dispositions to make the attack in case it was to be made. Colonel Locke soon after came to me with an order from General Porter to make the attack. (Page 150, O. R.)

General Morell produced the written order to attack, and which preceded the one given by Colonel Locke; and it is as follows:

General MORELL: I wish you to push up two regiments, supported by two others, preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the party with a section of a battery opposed to you. The battle works well on our right, and the enemy are said to be retiring up the pike. Give the enemy a good shelling when our troops advance.

F. J. PORTER,  
Major-General Commanding.

Now, if you will read the evidence of Lieutenant-Colonel Earle and of General Morell you will see that this written order from Porter to

attack was given even before the 4.30 order was received, and that when Captain Pope arrived orders were out to begin an attack.

Now, can any sane person say that Porter did not intend to fight, that he disobeyed the order? I also quote from a note from Colonel (since General) G. K. Warren, dated 5.45 p. m., August 29, 1862 (see page 427, O. R.). It says:

I then met an orderly from General Porter to General Morell, saying he must push on and press the enemy.

And yet gentlemen stand here and say that General Porter did not intend to fight, that he gave no orders to fight, and that he disobeyed and intended to disobey the order. We have not only the written but the verbal orders of General Porter, issued after the receipt of Pope's order, directing an immediate attack, and we have the note written on the field that night saying that Porter had given the orders to attack. In the face of this evidence, which cannot be controverted, I insist that such assertions are unfounded and unjust.

But gentlemen say that no fighting followed, that the order was afterward countermanded, and that no attack was made. True. But General Morell says that it was too late, that it was just between daylight and dark, and that no attack could be made. The enemy was in front in large force, and the ground was rough and heavily timbered. The enemy were posted on a ridge in a position that was admirably adapted to defense, a very stronghold.

Major Hyland was in front of Morell on the skirmish line, and could hear the commands plainly as if the enemy was forming in line and the movements of the artillery coming into position. He says:

I judge from the movements and the commands given that there was a very large force indeed, probably a larger force than we had. \* \* \* From what information I had, and from what I could get from the other officers, I thought their force was very heavy indeed.

Lieutenant Stevenson says that between 1 and 4 o'clock he joined his regiment on the skirmish line—"could see the enemy; judge him to be between twelve thousand and fifteen thousand; could see his forces of different arms, infantry and artillery; he was receiving re-enforcements."

Col. E. G. Marshall was in command of the skirmish line. Says there was "a very large force, and they were drawn up in line of battle as they came down."

All these facts were reported to Morell at the time and to Porter, still Porter ordered the attack to be made and repeated the order after the remonstrance of Morell.

Colonel Marshall, whom this committee who made this report say is entitled to the highest credit, knew all the facts, and he says that General Morell asked his advice as to making the attack.

Says Colonel Marshall:

I told him by all means not to attack; that it was certain destruction for us to do so; that I for one did not wish to go into that timber and attack the enemy. Their position was a very strong one and they certainly were in force at that time; twice as large as our own force—all of General Porter's corps. If we had attacked them I felt that it was certain destruction. Afterward, at dark, I was sent for by General Porter and questioned very stringently with reference to the enemy, and my remarks to him were the same I am now making and as I made to General Morell.

How it is possible for the gentlemen to contend that General Porter was guilty of disobedience of that order under these circumstances I am unable to see; the witnesses all agree that a flank attack was out of the question, and that an attack in front was all that could be made.

Common sense unaided by military skill tells us that to have moved a force of ten thousand men against such a position in the face of such

trained soldiers as Longstreet commanded, and in the gray of the evening when the darkening woods would have rendered every move uncertain and obscure, would have been suicidal. About noon that day McDowell had suspended an attack already begun on that position, as has been proved by five witnesses, and it must have been on the ground that an attack was unwise and injudicious.

If any gentleman disputes the assertion that Porter was in the very act of assaulting the enemy beyond Dawkin's Branch when McDowell arrived on the ground, I desire to call his attention and read for his information the written orders and the evidence of the witnesses. It is undisputed that Morell deployed, formed a line of battle, and that there was skirmishing and artillery firing. Early in the afternoon General Porter sent General Morell this order:

General MORELL: Push over to the aid of Sigel and strike in his rear. If you reach a road up which King is moving and he has got ahead of you, let him pass, but see if you can not give help to Sigel.

\* \* \*  
F. J. PORTER, *Major-General*.

General Morell attempted to do this, but failed because of the thick woods and rough ground. It will be remembered that Sigel was on the turnpike with Pope. I searched the evidence in vain for any proof that Porter hesitated to do any act that should bring on a battle at any proper moment. In vain do I search for evidence that he had a desire to do other than his duty, his whole duty, and nothing but his duty—not only his duty to his commander, General Pope, but his duty to his country and his God. His whole career gives the lie to any other assumption. In the Mexican war, at Cerro Gordo, Contreras, Molino del Rey, the siege of Vera Cruz, Chapultepec, and the capture of the city of Mexico he had fought and shed his blood and never flinched.

At Gaines's Mill and Malvern Hill he had been particularly conspicuous for his gallantry and zeal and courage. Accomplished and brave, he was loved by his soldiers, who under his leadership had won for themselves laurels that will never fade. On the 30th of August he led his corps into the thickest of the fight, making assault after assault that General Lee characterized as most desperate and determined. How well he fought on that day is attested by the fact that his corps lost more men in killed and wounded than any other. If on the 30th General Pope had entertained the idea that Porter had been disloyal or derelict in his duty on the 29th, is it conceivable that he would have been retained in the command and given the post of honor and highest confidence and trust on the 30th? Impossible.

If at the close of Pope's campaign the Government had supposed that Porter had been guilty of any disobedience or neglect of duty, would he have been placed in command of the defenses of Washington as he was? Would he have been ordered with his corps to the field of Antietam? Would he have been allowed to remain in the command of his corps until the 12th of November, more than two months after the battle of Manassas? Did it take two months for Pope and the Government to ascertain that Porter had been guilty of crimes that merited death?

Is it not a significant fact that the removal of McClellan and the arrest of Porter were almost concurrent acts? Has it been forgotten that General Halleck did General Grant great injustice after the capture of Forts Donelson and Henry, the first great successes of the war? Need you be reminded of his sharp and insulting dispatches to that general,

RA—3

and that after the battle of Pittsburg Landing he went up and took command of the Army himself, and spent six weeks in besieging the vacant hills and fields between that place and Corinth, while the enemy reposed and refreshed themselves at that place? Have you forgotten that for two months or more Grant was without a command, and heralded as a drunkard and an incompetent? Is it not remembered that even the brave and gallant and devoted Thomas had been, in fact, superseded when he fought and won the battle of Nashville and destroyed the army of Hood?

Injustice was done these men and accidents saved them. It was only the personal entreaty of Sherman that kept Grant with the Army, smarting as he was under his undeserved and unjust treatment by Halleck. It was the slow train that preserved the command to Thomas and enabled him to win the laurels of Nashville. In the light of history let us be guarded in our action, that we may not add another mistake to the long list already recorded. Great stress has been laid upon the fact that General Porter was deceived by the dragging of brush up and down the road in his front by General Rosser's troops. That they did so drag brush to give the appearance of a large force moving in front is unquestioned.

General Rosser testified before the board of inquiry that such dragging of brush commenced in the forenoon and was stopped as early as 1 o'clock p. m. By that time Longstreet's men were well in position and hungry for an attack. All the time from 12 until 1 o'clock McDowell was on the ground, and if Porter was deceived so was McDowell; if the one deserves criticism for being deceived by the enemy, so does the other. But I can not see what that has to do with this question. If Porter was deceived by the great dust kicked up by Rosser's cavalry, honestly deceived, we may censure him for want of keen penetration, but we can not pronounce it a crime. Other generals have been deceived, other commanders misled by the ruse of the enemy.

If Halleck had known the condition of things at Corinth that place would have been taken in six days instead of six weeks. Yet he was not court-martialed. If the advance of Grant's army had been pushed rapidly to Petersburg in strict obedience to orders, and the generals leading had not been deceived and misled by the enemy and by wrong assumptions and conclusions, Petersburg would have fallen the next day instead of a year or more later. Yet no one was court-martialed or dismissed the service.

On the files among the archives of the Army is a paper indorsed by General Meade in these words:

Had General Hancock or myself known that Petersburg was to be attacked Petersburg would have fallen.

To capture that city cost the lives of thousands of the bravest and best, yet I have never heard that any general of our Army was censured, court-martialed, or dismissed the service for that mistake.

Something has been said here about the mode of conducting courts-martial and about the organization of the court that tried Fitz-John Porter. It is conceded that during such a trial the accused and his counsel are always excluded from the room during its deliberation upon all questions, while the judge-advocate remains with the court. Such is the law of courts-martial, but is it justice? Should the prosecuting officer be thus in the room, when, even if he takes no part, he may hear all the court say, and thus ascertain their feelings and views of the evidence? Let me ask the gentleman from Ohio what would be his feelings were he on trial for his life to find the court and the jury shut up

with the prosecuting attorney, deliberating upon and discussing the legal points of the case only, but in doing which they must of necessity discuss the evidence and its weight and bearings as against the accused?

Judge Holt, the judge-advocate on this trial, was a good lawyer and a patriotic citizen, but no man ever has or ever can prosecute a case of any kind without having his judgment warped by a constant study of and association with one side of the case only. It may be that the court did not seek or ask or have his advice during those deliberations so frequent on this trial, and where so much evidence that was prejudicial to General Porter was illegally admitted and so much that was favorable was illegally ruled out. This may be, but I am not prepared to so believe. I think that his advice and his judgment on legal points, at least, controlled the court.

I do not reflect upon that court, nor upon any single member of it. I am willing to concede that every member was honest in intent, but I do not forget that two of its members were actors in the scenes of August 28, 29, and 30, 1862. I do not forget that if Ricketts and King had not fallen back from Thoroughfare Gap on the 28th, contrary to orders, Longstreet could not have come through that night or on the 29th and that Jackson must have been captured or his force scattered. Their conduct was in question; they were interested, as events proved and as the trial demonstrated. Can any member of this House say, therefore, that they were impartial judges?

I think no man on the floor of this House has intended to attack the character of Lincoln or Garfield or Stanton. In the heat of debate many expressions may escape the lips which are liable to misconception and misconstruction. I am second to no man in my love and admiration of the murdered Garfield. When the stars fade from heaven forever and the sun shall no longer give its light, when countless ages shall have rolled away, there shall yet remain the fame and glory that make radiant the memory of Lincoln and Garfield. How much we owe to the toil and patriotism of Stanton, rugged and severe as it was, history will never tell. In doing his stern duty if he sometimes erred it would create no surprise, nor should it cause any reflections on his memory; neither should we allow any sentimentality to blind our judgments or prevent our correction of all errors when opportunity presents.

It is not immaterial to me what Garfield thought. Having sat as one of the court in the Fitz-John Porter case, if he concurred in that verdict I will give weight to his opinion. If any gentleman can tell me how any member of that court voted I ask for the information. I await an answer. Every member of that court was sworn to secrecy. If any member has made known his vote, either directly or indirectly, he has demonstrated his absolute unfitness for the position and violated that most sacred oath.

If the gentleman from Indiana can present no more forcible argument in this case than a dream of his, he has no place in the argument of this question, for if dreams supply his argument they will control his judgment, and necessarily his vote on this bill will be good or bad according to the kind and quality of his dinner. As he delivered his speech I suppose he thought of the lines of the poet:

I sing the sweets I know, the charms I feel,  
My morning incense, and my evening meal,  
The sweets of hasty-pudding.

But great stress has been laid upon the fact that General Porter said he had no objection to any member of the court. Could he have changed the court by objection? Hardly. This court-martial was



ordered on the 25th of November, 1862, nearly three months after the events of August. In the meantime Porter had invited investigation, had clamored for a military court of inquiry, that his conduct might be fully examined. That was not granted. The loved and ever-lamented President made the order, but I assume that the stern and rugged Stanton had prejudged the case; that he induced its suppression and the substitution of an order for a court-martial. But Porter did not object. Feeling secure in his innocence, he went before the court confident of a triumphant vindication. "Innocence is ever simple and credulous; conscious of no designs in itself, it suspects none in others." He knew not that Pope was in possession of his private correspondence, and he little thought of the misconstruction that was placed upon it. He little knew of the hatred burning in the bosom of Pope. He little suspected that witnesses would come into that court and be allowed to characterize the expressions of his face as evidence of treason to Pope and disobedience of orders. I am fully aware that many of my Republican friends upon this floor are disposed to pay but little heed to the new evidence produced before the court of inquiry at West Point. It is said that it comes from confederate sources. Pause, gentlemen, and reflect. Can you for one moment suspect that any confederate officer would misstate a fact to aid General Porter? We knew they were misled and mistaken, but yet our brothers. They were children of the Union of the States who had loved and defended and who still love and defend the old starry flag, and I then thought, although wearing the blue while they wore the grey and fought under the stars the bars, and I still believe, that there was no time when they felt not a glow of pride as they caught sight of the Stars and Stripes of their fathers.

Buford, a general in the Union army, reported at least fourteen thousand confederates passing through Gainesville at 9.30 of the morning of the 29th. Longstreet says his corps was up by 11 and in position by noon, or soon after; many others say the same.

The testimony of every confederate officer shows that the forces of Longstreet—twenty-five thousand or more—were on or near the Warrenton pike in Porter's front all the afternoon of the 29th. They were formed on the right of Jackson, to the south of the pike, across the railroad, and in the immediate front of Porter. The reports of the confederate officers, made at the time, show conclusively how this was.

General D. R. Jones commanded the rear division of Longstreet's forces. He said in his report made then:

Early on the morning of the 29th I took up the march in the direction of the old battle-ground of Manassas, whence heavy firing was heard. Arriving on the ground about noon, my command was stationed on the extreme right of our line.

This was in front of Porter.

Says Longstreet:

Hood's division was deployed on the right and left of the Warrenton turnpike at right angles with it. General D. R. Jones's division was placed upon the Manassas Gap Railroad to the right, and in echelon with regard to the three last brigades.

This is the railroad across which Morell deployed about noon and where he was cannonaded, his horse being struck and several men being killed by infantry firing. It is evident, then, that the whole force of Longstreet, except one brigade, was in Porter's front, and that any advance would have struck that overwhelming force, not the flank of Jackson. The sworn testimony of General Longstreet, given before the board (page 59, &c.), shows twenty-five thousand confederates within easy call and several thousand in Porter's immediate front. The report

of General Stuart (at page 70) shows the same. Beverly H. Robinson testifies that long before noon heavy forces were in front of Porter's, and he says if Porter had advanced on that road he would have struck the confederates about their center.

I now, sir, desire to call the attention of the gentlemen who oppose this bill to new evidence on these important questions that does not come from confederate sources. It comes from Union officers and soldiers who took an important part in the scenes of August 29. At the time of the court-martial, remember, General Porter was under arrest; these men were at the front; General Porter was not permitted to visit them, and every door of information was closed against him.

General M. R. Patrick (page 184) says that he was in command of a brigade of King's division, and on the 29th of August was halted with the command above Bethlehem church just in rear of Porter's corps; that McDowell had told him that morning that he and King's division were to go with Porter; that about 1 o'clock McDowell came down from the front and said that Sigel was in a bad way. "I am going to take you away from Porter; Porter has gone as far as he can go," or "Porter is as far as he can go," and at page 198 he says McDowell said: "He has got as far as he can go," or "as far as he ought to go." The idea was Porter has got to stop where he is, and I want you to go around on the other road.

This evidence coming from the lips of General Patrick of my own State convinces me that when McDowell took King and fifteen thousand men and marched away, leaving Porter with only ten thousand men, saying "Porter has got as far as he can go," or "Porter has got as far as he ought to go," that he meant what he said and said what he meant; and that Porter and Colonel Locke and the others are correct when they say McDowell ordered Porter to stay where he was and told him it was "no place to fight a battle."

McDowell may swear till doomsday that he told Porter, "Put your forces in here," and that he expected that Porter would fight there; I shall not believe him. If it was the time and place for General Porter to fight, it was the time and place for General McDowell and General King to fight. Either McDowell was a craven when he marched away at 1 p. m. that day, or he was woefully mistaken when he testified before that court-martial.

Fisher A. Baker, adjutant of the Eighteenth Massachusetts, was in Morell's division in the advance on the 29th of August. He says skirmishers were thrown out and there was firing all the afternoon, also artillery firing, and some men were killed; that he saw a heavy force in front all the afternoon.

General W. M. Graham was with Kearny the night of August 27; was ordered to march that night; it was so dark they could not, and at 10 o'clock halted for the night.

It will also be borne in mind that Generals Pope and McDowell, and officers of lesser rank than General Porter, were allowed to give their opinion that if Porter had moved forward and attacked that night the result would have been a complete victory for the Union army, and it was largely upon these opinions, based upon the assumption that Longstreet was not in the front of Porter, that the conviction was had. It will also be borne in mind that Porter was contending that a large force of the enemy was in his front at the time the 4.30 order was received and that a flank attack was impossible. Under these circumstances the following question was put to General Pope on his cross-examination:

Q. Bearing in mind the terms and tenor of the order of 4.30 p. m. of the 29th

of August and its direction to the accused to attack the enemy's flank, and if possible his rear, and at the same time to keep up communication with General Reynolds on the right of the accused, please to inform the court whether, if it could have been foreseen at 4.30 p. m. that at the time when the accused should receive that order he would find himself in front of the enemy in large force in such a position that he could not outflank the enemy without severing his connection with General Reynolds on his right, would you, if that state of facts had been foreseen at the date of the reception of the order, have expected or anticipated obedience from the accused to the order according to its terms?

An objection was made, and the court ruled that the witness should not answer the question. The same ruling was made on this vital and all-important question all through the trial, so that while the prosecution was showing by opinions that if Porter had attacked a complete victory would have been won, assuming that Longstreet was not there, General Porter was refused the right to show that if Longstreet was there, as he claimed, not only would an attack have been suicidal, but that even Pope himself would not have expected an attempt to obey the order. The ruling was wrong, unjust, illegal, prejudicial.

Sir, gentlemen should keep in mind that on the trial of Fitz-John Porter it was charged and insisted that Jackson's force, twenty-two thousand, was the only enemy on the field, and that Fitz-John Porter, being on the flank of that force, was in duty bound to attack, "to march to the sound of the cannon," to the aid of Pope, who, it is claimed, was being defeated, and that therefore he was guilty. They should remember that on that trial it was insisted on and sworn to by Pope himself that Longstreet was not up and could not have been there. And there sat Porter insisting that Longstreet was there, and that his presence with twenty-five thousand men made an attack by him ruinous and a criminal waste of blood. On the assumption that Pope was correct, and on that alone, was Porter pronounced guilty. Now it is proved beyond question that Longstreet was there, that Porter was right and Pope all wrong. If justice has not fled to brutish beasts, let her now resume her seat.

Said the gentleman from Michigan:

There above the sulphurous smoke of that bloody field towered the majestic specter of America—

Which, being interpreted, means the majestic ghost of America—  
calling through the bellowing of the guns "Fitz-John Porter, this way!"

I admire the beauty of the gentleman's language, the power of his eloquence, and the magic of his presence, but I deny that Fitz-John Porter was to respond to the call of any ghostly apparition. Battles are real and practical, and demand cool commanders, who are neither visionary nor controlled by specters. Had Fitz-John Porter that day listened to any voice other than that of judgment, wisdom, and duty, the specters of thousands of uselessly sacrificed soldiers would have risen from the bloody ground and, with skeleton fingers, dripping blood, pointing at him, would have cried, "Recreant to duty, regardless of life, you are our murderer!" and that vision would have haunted him down to his grave. It was his duty to save, not knowingly and uselessly to sacrifice life.

The same gentleman from Michigan says that—

McDowell swears that Porter, standing there upon the crest of the hill, pointing with his hand above the tops of the trees, said, "McDowell, we can not go in there anywhere without having a fight;" and that McDowell replied, "I understand that is what we are here for."

He would have us imply that McDowell was ready and willing to fight then and there and that Porter is responsible that no fight occurred.

How frivolous, how misleading the statement, how destitute of point

or force, is demonstrated by the fact that almost immediately after that McDowell, burning and glowing, restless and raging for a combat with the enemy, as the gentleman would have us think, did what—attack that enemy in their immediate front? Get into a fight, which was what they were there for, as he would have us think? No, sir; but he took fifteen thousand of the twenty-five thousand men on that field and marched to the rear, and upon a circuitous route, that occupied the remainder of the day. There is no disputing this; and yet the gentleman would have us think and find that the subordinate was disobedient, while the superior officer who fled the field (if it was a duty incumbent on any one to fight there) is lauded as a hero and made a witness to degrade Porter for not doing what he himself declined to do; for not doing what McDowell thought not wise to do; for not doing that which General Porter subsequently discovered would have been perfectly ruinous to do; for not doing that which this board of inquiry say would not only have been “a great blunder” but “a great crime.”

But the gentleman in his zeal and blind grasping for some straw upon which to found an argument against General Porter, quite unexpectedly stumbled upon the dispatch of General John Buford, and which, having been sent to Ricketts and forwarded to McDowell, was by him shown to General Porter between 12 and 1 o'clock. It is as follows:

HEADQUARTERS CAVALRY BRIGADE—9.30 a. m.

General RICKETTS: Seventeen regiments, one battery, and five hundred cavalry passed through Gainesville three-quarters of an hour ago on the Centreville road. I think this division should join our forces now engaged at once. Please forward this.

JOHN BUFORD,  
*Brigadier-General.*

That dispatch made it perfectly plain to General Porter that Pope had once more blundered and miscalculated. It proved beyond all question that the falling back of Ricketts from Thoroughfare Gap the night before had allowed Longstreet to come through, and that notwithstanding the announcement in the joint order that Longstreet would be up by the night of the 30th or the morning of the 31st, Lee's army was there united and in the immediate front. The trouble was, not that Porter was slow, but that Lee and Longstreet were two whole days ahead of Pope's time.

And yet the gentleman from Michigan says that he does “not believe in the faithfulness of that report.”

“I think that Buford was mistaken as to the hour,” says the gentleman. Why, sir, the Buford dispatch was in writing, dated at 9.30 that morning, and unless borne on the wings of the hurricane direct to McDowell must have been written not later than 9.30 or 10 o'clock that morning. But as that dispatch, like a double-edged dagger, punctured the gentleman's argument, he was compelled to argue that Buford was false in his written dispatches. So he makes the assertion, and then goes off on a wild-goose chase after the person of General Longstreet riding on the saddle behind Stuart, who was looking him up.

Sir, even if Longstreet had not passed Gainesville in person at 9.30 a. m., it is no indication that his advanced divisions were not even then in front of Porter. But, sir, argument is not necessary in the face of this report signed by Generals Schofield, Terry, and Getty, all Republicans, in which they say, among other things:

Such an attack under such circumstances would have been not only a great blunder, but, on the part of an intelligent officer, would have been a great crime.

And—

It is not possible that any court-martial could have condemned such conduct if it had been correctly understood. On the contrary, that conduct was obedient, subordinate, faithful, and judicious. It saved the Union army from disaster on the 29th of August.

We can but reach one conclusion if we will lay aside our prejudice and partisanship and act the part of the unbiased judge.

Sir, I am deeply pained to see such strained efforts to find arguments against General Porter. If none exist in the record, let us not travel outside and into the realms of guess or speculation, where we shall find ourselves groping in ignorance and doing great wrong. If it be possible that General Buford was mistaken one or two hours in the date of his 9.30 dispatch, it is more than probable that Pope was more than an hour out of the way in dating his 4.30 order. Such an error would be in "sweet accord" with his numerous egregious errors and contradictions.

I have, sir, but one word more. My love and admiration for the soldiers of this Republic are unbounded and beyond expression. There are more than a hundred thousand of them who are encamped in the bivouac of the dead whose silent voices come to us amid the busy cares of the day and appeal for justice to every soldier and plead for Fitz-John Porter. In the silent hours of the night do they come, and as we securely repose, relying on the care and infinite justice of God, they appeal to us to right this great wrong, and remove the undeserved stain that for twenty years has darkened the record of Fitz-John Porter and stained the military annals of the Republic.

Sir, I am aware how impossible it is to fully review this case in the brief time allowed me. But I repose confidence in this House and in its integrity and intelligence. In the name of justice, for the honor of our country, and in behalf of the thousands of soldiers who appeal to us for justice to their old comrade in arms, and whose confidence in his integrity, loyalty, and devotion has never been shaken, I ask for that most righteous verdict in this case which will have been rendered when this bill becomes a law.

Mr. THOMAS. I will yield a minute or two of my time to the gentleman from Indiana, Major STEELE.

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(2)  
From Mr. S. L. Porter  
May, 1842  
FITZ-JOHN PORTER.

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SPEECH

49043

OF

HON. JOHN A. LOGAN,  
OF ILLINOIS,

IN THE

SENATE OF THE UNITED STATES,

THURSDAY, MARCH 13, 1884.

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WASHINGTON.  
1884.





SPEECH  
OF  
HON. JOHN A. LOGAN.

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The Senate, as in Committee of the Whole, having under consideration the bill (H. R. 1015) for the relief of Fitz-John Porter—

Mr. LOGAN said:

Mr. PRESIDENT: In 1865, when war had ceased, when our citizens were no longer aroused by the distant rumbling of artillery, when blood had ceased to flow, and the good women of our country, as ministering angels, had ceased to smooth the brow of the weary and wounded soldier, when all breathed freely once more, we then had reason to suppose that all things necessarily connected with the prosecution of the war against rebellion would remain undisturbed; and that all proceedings on the part of those in charge of national affairs which had been conducted in accordance with the laws and the Constitution were settled forever upon principles of equity and justice.

In the prosecution of the war against treason they believed they were preserving to future generations a great government, and that all nations of the earth might receive beneficial lessons from the course pursued by those who had maintained the national unity and supremacy. We did not believe that the history as it was then honestly made would be reversed, that the judgment of courts fairly, legally, and honestly entered would in after years find a Congress that would set them aside and rewrite the history of the trial; not only rewrite it, but write it down against those who preserved the Government and in favor of those who failed at a perilous moment, that, too, at a time when all the power and the patriotism should have been combined for the purpose of producing one grand result for the benefit of mankind.

TRIED BY A LEGALLY CONSTITUTED COURT.

Turning back the wheel of time to 1863 we find the trial of Fitz-John Porter by a legally constituted court for the disobedience of orders lawfully issued to him by his superior and commanding officer. In that trial forty-five days were consumed and many witnesses were heard. The court determined the case against him and dismissed him from the service of the United States. That court was composed of nine officers, a part of whom were learned in the law, and a majority of them learned in military science. That sentence was approved by the then President of the United States.

But, sir, what is the scene presented to the American people to-day? It is not the trial of an officer for failing to perform his duty during a battle or for failing to observe an order issued by a superior officer. No, sir; but it is the trial before the Congress of the United States in 1884 of the court that condemned this man; it is the trial of the President who signed the verdict, it is a trial of the living and the dead who performed their duties on that occasion.

## PORTER APPEARS AS A PROSECUTOR AGAINST THE COURT.

Talk about this being a trial of Fitz-John Porter. Sir, he has been tried and convicted and twenty years have passed, but to-day he appears as a prosecutor before the Congress of the United States, against a court legally authorized, and against the martyred President of that time. It is the trial of those who are living; it is the trial of the graves of those who are dead with a charge that they dealt unjustly by him; that they dealt with prejudice against him; that they violated the laws in their verdict; that they misconstrued the evidence; that they rendered an unjust and an unjustifiable decision against him. These are the questions that we are called upon to-day to determine.

In deciding a question like this it would seem at least that it should be examined fairly, impartially, and be understood according to the facts and the evidence on that trial, without either prejudice against those who tried or prejudice in favor of the man who was tried.

We find, however, on one side of the Chamber a solid vote in favor of this bill. Without desiring to criticise the vote of any one, I hope I may be, pardoned, however for making one remark. It is perfectly natural that when those who engaged in rebellion against a great Government like this failed of success and had themselves been pardoned by the Government should, without any examination of the evidence in the case whatever, feel a sympathy for those who had been during the war dismissed the service of the United States. Why? Because they would naturally sympathise with them and say, "I have been forgiven, therefore I forgive everybody else for any dereliction during the war, no matter whether they were criminally guilty or not, especially when they were convicted for not marching or fighting against us."

I can understand the sympathy that exists on that side of the Chamber for this man, but let me say that sympathy ought not to go to the violation of a great principle that underlies the very structure of our Government, and the regulating of the armies of the United States, their discipline and organization.

## APPLY THE EVIDENCE.

I desire, however, to discuss this question first from a legal standpoint, applying the evidence thereto, and then ask the question whether any Senator in this Chamber, taking the whole case as it stands to-day, can lay his hand upon his heart and conscientiously say, "I am acting according to the law and according to the facts of the case" in voting to restore Porter?

First, what is the law in reference to the obedience of orders? A portion of it was read by my friend from Nebraska [Mr. MANDERSON] but I will read the law as it has been laid down in works that are received as authority both in England and America, in fact all over the civilized world, for the same principles apply everywhere so far as this question is concerned. You will find in the authority quoted by the Senator from Nebraska known as De Hart the same language that he read, which I quote. De Hart says this as a rule laid down in military law:

Hesitancy in the execution of a military order is clearly, under most circumstances, a serious offense, and would subject one to severe penalties; but actual disobedience is a crime which the law has stigmatized as of the highest degree, and against which is denounced the extreme punishment of death. (De Hart, p. 185.)

The same author says further:

"In every case, then, in which an order is not clearly in derogation of some right or obligation created by law, the command of a superior must meet with unhesitating and instant obedience." So vital to the military system is this subordi-

nation of will and action deemed, that it is secured by the most solemn of human sanctions. Each officer and soldier, before entering the service, swears that he "will observe and obey the orders of the officers appointed over him."

Pendergrast lays down the law relating to officers of the army in his revised edition in the following language:

The duty of military obedience to the commands of superior officers is most fully recognized by courts of law; and it has been held that disobedience never admits of justification; that nothing but the physical impossibility of obeying an order can excuse the non-performance of it; and that when such impossibility is proved, the charge of disobedience falls to the ground. The learning on this subject is to be found in the great case of *Sutton vs. Johnstone* (first Term Reports, 549), which was an action by Captain Sutton, of His Majesty's ship *Isis*, against Commodore Johnstone, for arresting and imprisoning him on charges of misconduct and disobedience to orders in the action with the French squadron under M. Suffrein, in Ponto Praya Bay, in the year 1782; and there the two chief-justices, Lord Mansfield and Lord Loughborough, laid down the law in the following terms:

"A subordinate officer must not judge of the danger, propriety, expediency, or consequence of the order he receives; he must obey; nothing can excuse him but a physical impossibility. A forlorn hope is devoted; many gallant officers have been devoted; fleets have been saved and victories obtained by ordering particular ships upon desperate services, with almost a certainty of death or capture."

Mr. Pendergrast, in his citation, makes the reservation, always understood, that the order given is not manifestly and clearly illegal.

The General of the American Army (Sherman), in referring to this principle of obedience to orders in action (24th February, 1870), re-enunciated the rule laid down by the two eminent lord chief-justices. He says:

The stronger the force of the enemy present at the time the officer received the orders, the greater the necessity for him and his troops to pitch in, even if roughly handled, to relieve, *pro tanto*, the other forces engaged.

That being the law I defy any one to show that this has not been the rule since armies have been organized and since battles have been fought. It being the law that an order must be obeyed unless there is a physical impossibility to obey, the question before the court-martial was, what is the statute law of the United States in reference to punishment for disobedience of orders? You find that article 9 of the Articles of War as read yesterday afternoon by my friend from Iowa [Mr. WILSON] is in the following language:

Any officer or soldier who shall strike his superior officer, or draw or lift up a weapon, or offer any violence against him, being in the execution of his office, on any pretense whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offense, be inflicted upon him by the sentence of a court-martial.

The court-martial in examining the case find, first, what is the general law regulating armies; in other words, what is the common law governing the case? In the second place, what is the statute law of the United States in reference to the obedience of orders? It is that a lawful order from a superior officer must be obeyed. Its disobedience carries with it the penalty of death.

#### THE QUESTION BEFORE THE COURT-MARTIAL.

What had the court-martial that tried Fitz-John Porter to examine? What question was before them at the time they were organized for his trial? It was this: Did Fitz-John Porter receive a lawful order? No one has ever questioned that proposition. If he received a lawful order was it a physical impossibility for him to obey that order? If it was demonstrated that it was an impossibility for it to be obeyed, then, as a matter of course, they had no right to convict him. It was his duty to show that impossibility. Did he do it? Does the evidence disclose

any such state of facts? If so, I ask any Senator on this floor to point out to me wherein it was impossible for this order to have been obeyed.

A question has been suggested in the argument here that he did not know the necessity for obeying the order strictly. I suppose that no Senator who has read the testimony will state that as a fact. Did not General Pope send him two orders prior to the 6.30 order of the 27th of August notifying him that the enemy was in a certain position and that he must be there as speedily as possible? He had received two orders prior to that giving him notice of the position of the enemy and requiring him to move as rapidly as possible.

#### WHY GENERAL POPE ISSUED THE ORDER.

The first proposition is to examine this case fairly, so that no one shall be deceived in reference to it, and to understand that General Pope issued not only a proper order but one based upon good reasons at the time. It has been said that Pope managed the campaign badly; that the order was issued without good reasons; that there was no necessity for this man Porter being there the next morning; that the necessity disappeared when he arrived. For the purpose of understanding properly this question as we go along let us examine the reasons that prompted General Pope to issue the order. You will find on page 13 of the sworn testimony before the court-martial this statement by Pope:

General Hooker's division had had a severe fight along the railroad, commencing some four miles west of Bristoe Station, and had succeeded in driving the division of General Ewell back along the road, but without putting it to rout; so that at dark Ewell's forces still confronted Hooker's division along the banks of a small stream at Bristoe Station. Just at dark Hooker sent me word, and General Helntzelman also reported to me, that he, Hooker, was almost entirely out of ammunition, having but five rounds to a man left, and that if any action took place in the morning, he would, in consequence, be without the means of making any considerable defense.

Without taking up the time of the Senate to read the evidence which has been given to the Senate time and again, I will briefly restate the situation as shown by the testimony. Jackson was at Centreville with his corps; Hooker's division was at Bristoe Station engaged in a battle with Ewell's division; Fitz-John Porter was ten miles away that night with his corps; Hooker's division was out of ammunition, there being but five cartridges to the man. Why was this order issued? Is there a man on either side of the Chamber who understands anything about military operations who does not know that it is a part of the science of war for every good general to take advantage of such a position and try to strike the enemy in detail? It was perfectly natural for Pope to expect that his division would be attacked at daylight next morning by Jackson, who was only a few miles away at Centreville, before the support would come from the rear.

#### POPE DID INFORM PORTER OF THE NECESSITY OF A NIGHT MARCH.

But it is said that he, Porter, was not sufficiently advised by Pope, and did not see the necessity of a night march. This is not true; he was notified both on the 26th of August and on the 27th, prior to the 6.30 order, so that he was to be ready to move and act quickly. To show this I will merely give the two orders mentioned, which are as follows. They tell their own story:

HEADQUARTERS ARMY OF VIRGINIA,  
Warrenton Junction, August 26, 1862—7 o'clock p. m.

GENERAL: Please move forward with Sykes's division to-morrow morning through Fayetteville to a point two and a half miles of the town of Warrenton, and take position where you can easily move to the front, with your right resting on the railroad. Call up Morell to join you as speedily as possible, leaving only small cavalry forces to watch the fords. If there are any troops below, coming up, they should come up rapidly, leaving only small rear guard at Rappahannock Station. You will find General Banks at Fayetteville. I append be-

low the position of our forces, as also those of the enemy. I do not see how a general engagement can be postponed more than a day or two.

McDowell, with his own corps, Sigel's, and three brigades of Reynolds's men, being about thirty-four thousand, are at and immediately in front of Warrenton; Reno joins him on his right and rear with eight thousand men at an early hour to-morrow; Cox, with seven thousand men, will move forward to join him in the afternoon of to-morrow; Banks, with six thousand men, is at Fayetteville; Sturgis, about eight thousand strong, will move forward by day after to-morrow; Franklin, I hope, with his corps, will by day after to-morrow night occupy the point where the Manassas Gap Railroad intersects the turnpike from Warrenton to Washington city; Heintzelman's corps will be held in reserve here at Warrenton Junction until it is ascertained that the enemy has begun to cross Hedgeman's River. You will understand how necessary it is for our troops to be in position as soon as possible. The enemy's line extends from a point a little east of Warrenton Sulphur Springs around to a point a few miles north of the turnpike from Sperryville to Warrenton, with his front presented to the east, and his trains thrown around well behind him in the direction of Little Washington and Sperryville. Make your men cook three days' rations and keep at least two days' cooked rations constantly on hand. Hurry up Morell as rapidly as possible, as also the troops coming up in his rear. The enemy has a strong column still further to his left toward Manassas Gap Railroad, in the direction of Salem.

JOHN POPE,  
*Major-General Commanding.*

Maj. Gen. FITZ-JOHN PORTER,  
*Commanding Fifth Army Corps.*

This order of Pope on the 26th shows that Porter was thus early notified of what was expected. Also the following:

HEADQUARTERS ARMY OF VIRGINIA,  
*Warrenton Junction, August 27, 1862—4 o'clock a. m.*

GENERAL: Your note of 11 p. m. yesterday is received. Major-General Pope directs me to say that under the circumstances stated by you in relation to your command he desires you to march direct to this place as rapidly as possible. The troops behind you at Barnett's Ford will be directed by you to march at once direct to this place or Weaverville, without going to Rappahannock Station. Forage is hard to get, and you must graze your animals as far as you can do so. The enemy's cavalry has intercepted our railway communication near Manassas, and he seems to be advancing with a heavy force along the Manassas Gap Railroad. We will probably move to attack him to-morrow in the neighborhood of Gainesville, which may bring our line further back toward Washington. Of this I will endeavor to notify you in time. You should get here as early in the day to-morrow as possible in order to render assistance should it be needed.

I am, general, very respectfully, your obedient servant,

GEO. D. RUGGLES,  
*Colonel and Chief of Staff.*

Maj. Gen. F. J. PORTER,  
*Commanding Fifth Army Corps.*

Any discreet officer would have expected exactly what Pope did. So he says to Porter, "You must come and be here by daylight." He issued this order and demand that Porter should come by daylight. Here is the order:

HEADQUARTERS ARMY OF VIRGINIA,  
*Bristoe Station, August 27, 1862—6.30 p. m.*

GENERAL: The major-general commanding directs that you start at 1 o'clock to-night and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retreating along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the railroad train to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General Pope.

GEO. D. RUGGLES,  
*Colonel and Chief of Staff.*

Maj. Gen. F. J. PORTER, *Warrenton Junction.*

P. S.—If Banks is not at Warrenton Junction leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the junction instruct Colonel Clary to run the trains back to this side of Cedar Run, and post a regiment and section of artillery with it.

By command of Major-General Pope.

GEO. D. RUGGLES,  
*Colonel and Chief of Staff.*

So it will be seen that two orders prior to that time had been issued notifying him of the fact that the enemy was in his front, and that he must hurry without any delay, and yet it is said that Porter did not know this. He did know it, but if he did not it is not for the subordinate officer to know, it is for the officer who issues the order to have reason for issuing such an order, and if it is a lawful order it is the duty of the subordinate to obey. Oh, but, says the Senator from New Jersey, Porter's officers told him that there was no necessity for obeying this order, that they could get there in the morning early enough. As we go along I propose to show that Fitz-John Porter did not intend to obey the order. He did not notify his generals commanding his divisions of the necessity of this order being obeyed. General Sykes, who was the officer that commanded the regulars under Fitz-John Porter, in his evidence before the court-martial testifies as follows:

Q. Do you remember whether you were made acquainted with the urgent language of the order—

Speaking of the 6.30 order of the 27th of August, 1862—

stating that by all means General Porter must be at Bristoe Station by daylight the next morning?

Now mark what General Sykes says:

A. No, sir, I think not; for I am satisfied that if that urgency had been made known to us we would have moved at the hour prescribed.

Showing that this man did not even let the officers commanding his divisions know the urgency of his being there the next morning. General Sykes had agreed with him that night to postpone his march in obedience to that order, but when he comes to testify he says that if he had known the urgency of that order, he would have been in favor of obeying it and moving at the time.

#### THE SURROUNDING CIRCUMSTANCES.

Now let us examine for a moment another proposition. When a man is tried for an offense there is always something in connection with the circumstances surrounding the case that gives an idea to a jury or to a court of his intention. In order, then, to ascertain the intention of this man Porter, to show that he did not intend to obey the orders, I call the attention of Senators to the letters referred to by the Senator from Nebraska [Mr. MANDEERSON], that he wrote to General Burnside before receiving these orders, and afterward too, showing that at the time he had contempt for Pope, and if he obeyed Pope it would be because he was compelled to do so. No man can infer anything from these letters, other than that he did not intend to support Pope.

#### DETERMINATION THAT POPE SHOULD NOT SUCCEED.

Then, Mr. President, there is a long history in connection with the conduct of Porter, but I will not take the time of the Senate to read it, though I have order after order issued by General Halleck to General McClellan, just across the Potomac, to send Franklin and his command to the support of Pope. When he was ordered to send them, when there was a necessity for it, he sent back for the reasons, but was compelled to send the troops, but when sent they did not arrive, showing that there was a combination and determination that this man Pope should not succeed.

Take the conduct of Fitz-John Porter in front of Winchester at the beginning of the war, when General Patterson was ordered to move and attack General Joe Johnston—just before the first battle of Bull Run was fought and when he had nineteen thousand troops and General Joe Johnston of the confederate side had but nine thousand. He was within ten miles, and when he was ordered to attack Joe Johnston to prevent him from joining the rebels at Manassas Junction, Fitz-John Porter persuaded Patterson, as the records, sworn to, show, to move twenty miles to the right under pretense that it was the best move to make. So by this move Johnston was let loose and made his move on to Manassas and turned the battle against McDowell. So I charge here, and I defy contradiction, that Fitz-John Porter was the cause of the loss of the first battle of Bull Run and refused to fight in the second. [Applause in the galleries.]

The PRESIDING OFFICER (Mr. FRYE in the chair). No applause can be allowed in the galleries, and the Sergeant-at-Arms will be instructed to arrest any person in the galleries who hereafter indulges in it.

WAS IT IMPOSSIBLE TO OBEY THE ORDER?

Mr. LOGAN. Now, Mr. President, let me call the attention of the Senate for one moment to the evidence and see whether or not it was an impossibility for this order, known as the 6.30 order, to be obeyed. The order was issued at 6.30 in the afternoon of August 27, 1862, when Porter was nine miles away. The order was delivered by Capt. Drake De Kay, one of the staff officers of General Pope, at 9.30 p. m. That order directed him to start at 1 o'clock precisely and be at Bristoe Station at daylight, which was about 4 o'clock.

I ask what is the necessity for Senators here to say that darkness, trees, bridges, or anything else was in the way of Fitz-John Porter? Fitz-John Porter did not examine the roads, and there is no evidence to show that he did. Fitz-John Porter did not try to clear the roads, and there is no evidence to show that he did. He sent two officers to Pope and asked Pope to clear the road for him. Sir, it will not do to say that a man is excusable for disobeying an order when he does not try to obey it. He gave no orders to his commanding officers to move at 1 o'clock, he gave no orders for them to be ready to move at 1 o'clock, he gave no orders to them to be ready to move prior to 3 o'clock in the morning. The evidence of Drake De Kay shows that there were four miles of that road from Porter's camp to where the teams were being parked, with no obstruction in the way. He did not attempt to move that four miles. The evidence of Frederick Myers, the quartermaster in charge, shows that the wagons were all parked out of the way by 2 o'clock, and the road was clear, and Porter still did not move; in fact he did not move until after sunrise the next morning. The head of his column touched the road at 4 o'clock, right at his camp, and the evidence of one of the officers who was near Porter at that time shows that Porter was in his tent, and the sun was up before he mounted his horse; and yet Senators say that because he could not obey the order was the reason he did not do it.

Why do not Senators say that he tried to obey the order, as an excuse? But they can not say this. He did not, and the evidence shows that he did not. If he did not try to obey the order, he certainly disobeyed it. No obedience is disobedience. If there was disobedience of the order, I ask any Senator here to-day, no matter on which side he may have plumed himself, to tell me what a court-martial could do on a trial of a man for disobedience of orders if the evidence disclosed the fact that he did not try to obey the order? What kind of a verdict

would they find? I ask what kind of a verdict could a jury or a court-martial find? They must find, according to their oaths, that he did not obey the order. If he did not obey the order, then, as a justification for not obeying it, was there an impossibility? The evidence does not show that fact. That being true, then I ask any man how he can vote to condemn that court-martial, the President who approved its judgment, and the whole country who approved it at that time, merely out of sympathy for this man because it is said he has been punished sufficiently?

THE EVIDENCE AS TO THE CONDITION OF THE ROAD PREPARED FOR PORTER.

Why, sir, I will give the evidence of twenty-one witnesses swearing to different points showing this state of facts to be true: that the road was open at 2 o'clock in the morning; that four miles of the road was open from his camp that night when he received the order; that he did not move until five hours after the order directed him to move; that he moved at a time when the wagons were coming out of park, which was off the road, into the road; that the road became obstructed not while he could have moved, but after the time had expired when he was to have been at Bristoe Station.

General Pope swore the road was in good condition, &c.

Drake De Kay delivered the order at 9.30.

OTHER WITNESSES.

Chauncey McKeever, known as General McKeever, a man well known here by nearly everybody, testifies that there was nothing to prevent the troops being put in motion on that night of the 27th of August.

Col. Robert C. Cleary, who was sent by Porter to move the trains forward beyond Cedar Run, testifies that a proper force had been sent forward to clear the road; that there was nothing to prevent the troops from moving that night if a force had been sent to clear the road; that when he passed over it there was only a small portion of the road obstructed.

Solomon Thomas testifies that he moved out on the road in the morning; that they lay there until 9 o'clock on the morning of the 28th before they were moved forward; that the roads were in good condition and when they moved out there was no obstruction. He was part of this command.

General Butterfield testifies that General Porter sent two aids to Pope that night, to ask Pope to clear the road for him (Porter); that he did not know the urgency of the order; nor did he know whether any attempt had been made to clear the road.

Captain Duryea testifies that he marched from Warrenton that night up to 12 o'clock, and experienced no difficulty whatever in marching.

Capt. William W. Macy testifies that he marched that night until 10 o'clock, and experienced no difficulty, and had marched many times on darker nights.

Lieutenant Brooks testifies that he traveled that night from beyond Warrenton to Warrenton Junction, from Warrenton Junction to Bristoe Station, and from Bristoe Station along to Greenwich; that he had no difficulty in finding the road, and that the roads were good.

General Thomas McCoy testifies that he marched all the night of the 27th and until 1 o'clock in the morning with his command, and they experienced no difficulty in marching.

Colonel Buchanan testifies that he was at Porter's headquarters at 3 o'clock in the morning; that there was no stirring in the camp; that he waited until after sun-up before he could see General Porter; that after



that time Porter asked him to send a detachment of his cavalry forward to clear the road, so that he could march his troops, which was done.

William E. Murray testifies that he marched with his command that night until 10 o'clock; that the roads were dry and in good condition.

William M. Campbell testifies that he marched that night, finding no difficulty in the roads or darkness of the night.

Maj. William Birney testifies that he marched with his command in the direction of Bristoe Station on the night of the 27th; also marched again before daylight; that he experienced no difficulty on account of the character of the night, or the roads; and that his entire brigade accompanied him.

J. H. Stine testifies that he marched with the whole brigade to which he belonged until after 9 o'clock at night, and found no difficulty either in the roads or in the darkness of the night.

Capt. John P. Taylor testifies that he is well acquainted with that country; that he was over the road from Warrenton Junction to Bristoe Station frequently; that wagons could go on either side of the road; that it was an open country, so that troops could move either on or at the side of the roads without difficulty.

The truth is, the evidence does show that there were but two little strips of wood from Warrenton Junction to Bristoe Station. It was all open field, and the fences had been burned. There was no trouble whatever in troops marching either on the road or outside of the road.

Samuel G. Hill, of Gibbon's brigade, testifies that his brigade marched that night until 10 o'clock; that he was up until 3 o'clock in the morning, and that the night was clear.

Major Duvall testifies that he rode from Warrenton to Catlett Station, from Catlett Station to Bristoe Station; thence to Manassas Junction; that there were wagons in the road, but no particular obstruction; that he traveled from eighteen to twenty miles that night.

James Haddow testifies that he marched with his command after sundown from Catlett Station to Bristoe Station; that the next morning (the 28th) he went from Bristoe Station back to Catlett Station; thence to Warrenton with three ambulances, and that they had no material difficulty in passing; that they met Porter's troops on the way.

Lieutenant Tiffany and N. P. Beach accompanied Haddow and testified to the same.

General Jubal Early testifies that he marched on the night of the 27th without experiencing any difficulty on account of the night.

Henry Kidd Douglass, adjutant-general of Jackson, of the confederate army, testifies that Jackson's whole command moved away from Centreville up to near Groveton with all their brigade trains during the night of the 27th.

General Myers, quartermaster who had charge of the trains, testifies that the road was good from Warrenton Junction to Bristoe Station; that he parked the trains and kept them going into park, reducing the number all the time in the road; that there was a road on either side of the railroad; that there was nothing to prevent troops from moving that night; that he brought the head of the wagon trains into the road at daylight on the morning of the 28th.

I follow this with the more extended testimony of these witnesses on these points.

The evidence shows not only that ample provision had been made for the movement of Porter's troops, but it also shows that the road was a good one, that troops passed over it that day, wagon trains passed over it that day; that the railroad had been repaired; that trains were run out all the way. The evidence shows that there was a road on either

side of the railroad. The evidence shows that these roads were open. The evidence shows that it was an open country all the way, except one or two little strips of woods that came down beyond his camp, and one near Kettle Run, so that the troops could march outside of the road, and did so during that day.

EXCUSES GIVEN.

Mr. President, what is the excuse given by his friends? It is that it was a dark night. I will not take up time in discussing the question as to the darkness of the night, except to say that the evidence contradicts that statement. Suppose it was a dark night; does that make it impossible for men to march? I appeal to every Senator on this side of the Chamber who was in the Union Army, I appeal to every Senator on that side of the Chamber who was in the confederate army if they would make such a statement—I would appeal to my friend from Kentucky [Mr. WILLIAMS]. No matter how he may vote out of sympathy, he knows that the cry that a man can not move on account of a dark night when there was a road to go on is utterly false.

SOME NIGHT MOVEMENTS THAT WERE MADE.

I have never desired to give my experience or say what I have done, but I will say now to the Senator from New Jersey, when he defends Fitz-John Porter for not moving nine miles at night so that he might fight a battle the next morning, that the records of our war show that I moved ten thousand men one night in a rain where we had to feel our way, ay, crossed the Mississippi River at daylight, and marched fourteen miles and came onto the battlefield in the midst of a heavy engagement, went into action at once with my men tired—but no matter, the soldiers went in with a will and turned the tide and the day was won.

Tell me that you can not move at night! Why, sir, moving around Vicksburg we marched night and day. After the battle of Jonesborough—I think my friend who spoke last [Mr. MANDERSON] was there—we moved to Lovejoy Station. In moving back, when the rain was pouring in torrents, I covered the rear of the Union Army when I could see neither road nor path.

Take the marches at the winding up of the rebellion; take the marches in Virginia at the time Richmond was evacuated; take the marches of Sheridan and of Crook; take the marches of the Fifth Corps—this same Fifth Corps that Fitz-John Porter commanded and did not command to fight at the second battle of Bull Run, after he was relieved from its command, however, it marched night after night. The history of the rebellion shows that the Fifth Corps marched for five days and nights, almost incessantly, helping to fight battles, under a different commander. And yet Senators make an excuse for this man that he could not attempt even to march that corps, he would not even try to obey an order to march, because it was dark!

LITTLE SCRAPS OF HISTORY.

Sir, it might not be amiss right here to call the attention of Senators to some little scraps of history. We may go far back in the history of wars, we may travel back as long as battles have been fought of which history gives an account, and we find night marches. Take, for instance, the battle of Arbela, fought by Alexander the Great against Darius. The night but one before that battle Alexander made the march in the dark to get on the battlefield by daylight. So you may take many others. Take the battle fought by Demosthenes at Syracuse. His assault was made in the dead of night by climbing around the crags on a pathway to the enemy. So, too, you may take the marches of Caius Claudius Nero when he escaped from the front of Hannibal and marched by night and

day without ceasing to Metaurus, and there the battle was fought. His troops were hidden in the camp of Livius until the battle commenced; they won the battle after night and day marches, and the first that was known by Hannibal that Nero had escaped him was when he threw Hædrubel's head into his—Hannibal's—camp.

Sir, the battle of Waterloo is recognized as a great battle, one of the fifteen great battles of the world. The battle of Waterloo was commenced in early day, and fought far into the night. The charge that was made by Napoleon with his reserve guard on the Iron Duke was made after 8 o'clock, and at 9 o'clock Wellington moved with his whole line and dispersed and drove the French army from his front. Do you tell me that you can not move troops by night? History is full of it. Battles in history show that great victories have been won in the night and that great marches have been made in the darkness and gloom of the night.

For the purpose of calling my friend's attention to the difference between an officer in 1802 and one in 1572 I should like to have read for his benefit a little scrap of history found in the second volume of Motley's Dutch Republic, on page 414:

The Secretary read as follows:

The Scheld, flowing past the city of Antwerp and separating the provinces of Flanders and Brabant, opens wide its two arms in nearly opposite directions before it joins the sea. Between these two arms lie the isles of Zealand, half floating upon, half submerged by the waves. The town of Tergoes was the chief city of South Beveland, the most important part of this archipelago, but South Beveland had not always been an island. Fifty years before, a tempest, one of the most violent recorded in the stormy annals of that exposed country, had overthrown all barriers, the waters of the German ocean, lashed by a succession of north winds, having been driven upon the low coast of Zealand more rapidly than they could be carried off through the narrow straits of Dover. The dykes of the island had burst, the ocean had swept over the land, hundreds of villages had been overwhelmed, and a tract of country torn from the province and buried forever beneath the sea. This "Drowned Land," as it is called, now separated the island from the main. At low tide it was, however, possible for experienced pilots to ford the estuary, which had usurped the place of the land. The average depth was between four and five feet at low water, while the tide rose and fell at least ten feet; the bottom was muddy and treacherous, and it was moreover traversed by three living streams or channels, always much too deep to be fordable.

Captain Plomaert, a Fleming of great experience and bravery, warmly attached to the King's cause, conceived the plan of sending reinforcements across this drowned district to the city of Tergoes. Accompanied by two peasants of the country well acquainted with the track, he twice accomplished the dangerous and difficult passage, which, from dry land to dry land, was nearly ten English miles in length. Having thus satisfied himself as to the possibility of the enterprise, he laid his plan before the Spanish colonel, Mondragon.

That courageous veteran eagerly embraced the proposal, examined the ground, and after consultation with Sancho d'Avila, resolved in person to lead an expedition along the path suggested by Plomaert. Three thousand picked men, a thousand from each nation, Spaniards, Walloons, and Germans, were speedily and secretly assembled at Bergen op Zoom, from the neighborhood of which city, at a place called Aggie, it was necessary that the expedition should set forth. A quantity of sacks were provided, in which a supply of biscuit and of powder was placed, one to be carried by each soldier upon his head. Although it was already late in the autumn the weather was propitious; the troops, not yet informed as to the secret enterprise for which they had been selected, were already assembled at the edge of the water, and Mondragon, who, notwithstanding his age, had resolved upon heading the hazardous expedition, now briefly, on the evening of the 20th October, explained to them the nature of the service. His statement of the dangers which they were about to encounter rather inflamed than diminished their ardor. Their enthusiasm became unbounded as he described the importance of the city which they were about to save and alluded to the glory which would be won by those who thus courageously came forward to its rescue. The time of about half ebb-tide having arrived, the veteran, preceded only by the guides and Plomaert, plunged gaily into the waves, followed by his army, almost in single file. The water was never lower than the breast, often higher than the shoulder. The distance to the island, three and a half leagues at least, was to be accomplished within at most six hours or the rising tide would overwhelm them forever. And thus, across the quaking and uncer-

tain alime, which often refused them a footing, that adventurous band five hours long pursued their midnight march, sometimes swimming for their lives, and always struggling with the waves, which every instant threatened to engulf them.

Before the tide had risen to more than half-flood, before the day had dawned, the army set foot on dry land again at the village at Irseken. Of the whole three thousand only nine unlucky individuals had been drowned; so much had courage and discipline availed in that dark and perilous passage through the very bottom of the sea. The Duke of Alva might well pronounce it one of the most brilliant and original achievements in the annals of war. The beacon fires were immediately lighted upon the shore, as agreed upon, to inform Sancho d'Avila, who was anxiously awaiting the result at Bergen op Zoom, of the safe arrival of the troops. A brief repose was then allowed. At the approach of daylight, they set forth from Irseken, which lay about four leagues from Tergoes. The news that a Spanish army had thus arisen from the depths of the sea flew before them as they marched. The besieging force commanded the water with their fleet, the land with their army; yet had these indomitable Spaniards found a path which was neither land nor water, and had thus stolen upon them in the silence of night. A panic preceded them as they fell upon a foe much superior in number to their own force. It was impossible for 't Zeraerts to induce his soldiers to offer resistance. The patriot army fled precipitately and ignominiously to their ships, hotly pursued by the Spaniards, who overtook and destroyed the whole of their rear-guard before they could embark. This done, the gallant little garrison which had so successfully held the city was re-enforced with the courageous veterans who had come to their relief. His audacious project thus brilliantly accomplished, the "good old Mondragon," as his soldiers called him, returned to the province of Brabant.

Mr. LOGAN. Here is an instance in 1572 where three thousand soldiers marched three leagues and a half, a distance of over nine miles, through an arm of the sea that came up to their chins, during the time when the tide was coming in, and they had to make the march by a certain time in order to reach the land. They did it, carrying their ammunition on their heads and saved the garrison. Yet you tell me that Fitz-John Porter with a corps refused to march nine miles at night when there was no sea there to overflow him, but because of the darkness of the night, upon a steady, firm road, and that it was a physical impossibility for him to march. Will an American soldier say that he can not do that which a Spanish, Walloon, or German soldier could do? Will an American soldier say he can not march where a foreigner might march? Will an American soldier say he can not march on dry land nine miles when a foreigner marched three thousand men not on dry land but on a slippery bottom where the ocean's waves came up to the chins of the soldiers, and he made that march in the dead of night when darkness was upon his army and saved the troops that he went to succor? In the name of all that is under and above the earth will Americans claim that they can not perform that which other men can do?

Suppose Fitz-John Porter had been ordered to march through water four feet deep nine miles that night, he would have said it was a physical impossibility, and you gentlemen who are voting to relieve him would have agreed with him; but here is a man who tells you that it was not a physical impossibility, for he did it, says this history. If an American Senator can excuse an American officer from marching nine miles in the night on a good road, where there are two roads, after having read this history it ought to bring a blush to the cheek of every American.

No, sir, it is not because he was convicted in violation of law, it is not because he was unjustly condemned. That is not it. The court has all passed away except three, I believe. Lincoln was assassinated; Garfield was assassinated. It is easy to denounce the action of the dead, for they can speak not; but it is not always well in a country like this to denounce the conduct of good and true men in the performance of their duty for the benefit of men who failed to perform their duty.

## SOME RECENT HISTORY.

I have a little history here to which I wish to call the attention of the Senate. Some who were major-generals of the Army have a history themselves. I discover some gentlemen who are very anxious to insist in word, speech and vote that this man Porter was improperly condemned should look well to their own record. I have the proceedings of fifty-one dismissals of officers from the Army copied from records of the War Department. I will read some of them. They were poor volunteer officers, that is true:

Lieut. Henry C. Smith, "for insubordination, disrespect to his commanding officer, and disobedience of orders." He was dismissed.

Lieut. James Walton, "absent without leave, and disobedience of orders."

Capt. Henry D. Wishart, of Pennsylvania, dismissed for deserting his company during action. "The general commanding regrets that he has not the authority to inflict the sentence of death."

Senators are putting this on the ground of excuses for people. Here is a poor fellow who could not stand the racket and he dodged a little; he was dismissed and the general says he regrets he has not the power to inflict the sentence of death.

Seth L. Woodworth, of Illinois, was dismissed for skulking.

Captain Paulus was dismissed for absence without leave.

Reuben Platt, lieutenant, was dismissed for "misdemeanor when the regiment was marching against the enemy."

I will not read them all at this time, but will ask to give them with my remarks. There are fifty-one cases, all dismissed, and I wish to call the attention of both sides of the Chamber to the fact that these fifty-one officers were dismissed by a commanding general without even giving one of them a trial. Not one ever had a trial by court-martial, but were dismissed peremptorily by order of the general commanding, some for skulking, some for absence, some for disobedience of orders, and one for disrespect to his commanding officer. That general is a tender-hearted man, I presume. Would the Senator from New Jersey like to know who the general is that dismissed those fifty-one officers without giving them even the right to a court-martial. His name is signed to this order, and I will read it:

By order of Major-General Rosecrans.

General Orders, No. 30.

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,  
*Murfreesborough, Tenn., February 24, 1863.*

By virtue of the authority delegated to the major-general commanding by the Secretary of War, the following-named officers are dismissed the service of the United States from the dates set opposite their respective names:

Maj. H. C. Rogers, Fourth Ohio Cavalry, from December 25, 1862, for absence without leave.

Lieut. James Ritt, Fourth Ohio Cavalry, from April 1, 1862, for absence without leave.

Lieut. Wellington B. Straight, Fourth Ohio Cavalry, from September 12, 1862, for absence without leave.

Lieut. John Shade, Fourth Ohio Cavalry, from December 26, 1862, for absence without leave.

Lieut. Adam Kunk, Fourth Ohio Cavalry, from September 6, 1862, for absence without leave.

Lieut. Thomas D. Burdall, Fourth Ohio Cavalry, from September 6, 1862, for absence without leave.

Capt. J. W. Marvin, Third Ohio Cavalry, from January 21, 1863, for absence without leave, breaking his arrest, and drunkenness.

Capt. John Fenbrook, Sixty-fourth Ohio Volunteers, from November 5, 1862, for deserting his command while on the march.

Second Lieut. James H. Baty, Fifth Kentucky Volunteers, from January 22, 1863, for absence without leave.

Second Lieut. L. H. Albert, Thirty-ninth Indiana Volunteers, from January 22, 1863, for desertion.

First Lieut. John W. Scott, Company G, Forty-second Illinois Volunteers, from January 11, 1863, for absenting himself without leave and for disabling himself by contracting a disease which unfits him for military duty.

Lieut. Henry C. Smith, Eightieth Illinois Volunteers, from January 22, 1863, for insubordination, disrespect to his commanding officer and disobedience of orders.

Second Lieut. James Walton, Ninety-fourth Ohio Volunteers, from January 22, 1863, for absence without leave and disobedience of orders.

Lieut. A. C. Brown, Tenth Wisconsin Volunteers, from January 23, 1863, for repeated misbehavior and absenting himself without leave when his regiment was marching to meet the enemy.

First Lieut. G. W. Riley, Fifteenth Indiana Volunteers, from January 29, 1863, for having disabled himself by contracting a disease which disqualifies him for military service.

Second Lieut. E. Bierce, Thirtieth Indiana Volunteers, from January 29, 1863, for straggling and permitting himself to be captured.

Capt. B. W. Canfield, One hundred and fifth Ohio Volunteers, from January 29, 1863, for disobedience of orders and gross neglect of duty in allowing his train, consisting of thirty-four wagons and one hundred and eighty-four animals, under charge of one hundred and sixty-four men, to be surprised and captured by scarcely superior force of the enemy, without any resistance on his part. The commanding general regrets his inability to inflict the extreme penalty of the law upon one so deserving an ignominious death.

Surg. H. M. Crouse, Fifty-seventh Indiana Volunteers, from November 9, 1862, for absence without leave.

Lieut. Col. Jacob Ruckstuhl, Fourth Kentucky Cavalry, from January 5, 1863, for absence without leave.

Capt. Henry Shaffer, Fourth Kentucky Cavalry, from January 5, 1863, for repeated absence without leave.

Capt. Patrick McGowan, Fourth Kentucky Cavalry, from January 5, 1863, for repeated absence without leave.

Maj. W. J. Clift, First Middle Tennessee Cavalry, from January 10, 1863, for absence without leave while his regiment was engaged with the enemy at the battle of Stone River.

First Lieut. R. H. Shively, First Middle Tennessee Cavalry, from January 10, 1863, for absence without leave while his regiment was engaged with the enemy at the battle of Stone River.

Second-Lieut. H. N. S. Shipp, First Middle Tennessee Cavalry, from January 10, 1863, for absence without leave while his regiment was engaged with the enemy at the battle of Stone River.

First Lieut. S. L. Gregg, Nineteenth Indiana Battery, from October 27, 1862, for absence without leave.

Col. O. S. Hamilton, Eighty-sixth Indiana Volunteers, from January 13, 1863, for incompetency.

Capt. John Burton, Fourth Indiana Volunteers, from January 13, 1863, for intemperance.

First Lieut. Henry Weck, Seventy-ninth Illinois Volunteers, from January 13, 1863, for cowardice in the face of the enemy at the battle of Stone River.

Second Lieut. William C. Willard, Seventy-ninth Illinois Volunteers, from January 13, 1863, for cowardice in the face of the enemy at the battle of Stone River.

Capt. David Jamison, Twenty-ninth Indiana Volunteers, from January 13, 1863, for cowardice and deserting his command in the midst of the battle of Stone River.

Capt. W. W. Schuyler, Twenty-ninth Indiana Volunteers, from January 13, 1863, for cowardice and deserting his command in the midst of the battle of Stone River.

Capt. S. H. Williams, One hundred and fifth Ohio Volunteers, from January 13, 1863, for drunkenness while on duty.

Lieut. John Mangold, Ninth Ohio Volunteers, from January 15, 1863, for absence without leave.

First Lieut. Joseph J. Armatage, Eighty-sixth Indiana Volunteers, from January 15, 1863, for abandoning his company in the presence of the enemy at the battle of Stone River.

Captain Klein, Seventy-ninth Pennsylvania Volunteers, from January 15, 1863, for absence without leave.

First Lieut. E. H. Benedict, Seventy-ninth Indiana Volunteers, from January 15, 1863, for cowardice and misbehavior on the battlefield.

Capt. Duncan C. Reed, Twenty-fourth Wisconsin Volunteers, from January 27, 1863, for deserting his command while engaged with the enemy, on the pretext of sickness.

Second Lieut. Albert B. Forbes, Eighty-eighth Indiana Volunteers, from January 17, 1863, for drunkenness on the field of battle.

Second Lieut. Jesse Ball, Eighty-eighth Indiana Volunteers, from January 17,

1863, for tendering his resignation, assigning as a reason that he was tired of the service and opposed to the President's proclamation.

Col. W. B. Cassely, Sixty-ninth Ohio Volunteers, from December 31, 1862, for drunkenness on the morning of the 31st December, at the most critical moment of the battle of Stone River, rendering him incapable of receiving or giving commands, thereby imperiling the safety of his entire regiment.

Capt. John Watts, Seventy-second Indiana Volunteers, from January 19, 1863, for disobedience of orders, gross carelessness, and neglect of duty while on picket.

Capt. M. Noble, One hundred and first Ohio Volunteers, from January 21, 1863, for absence without leave.

Second Lieut. O. L. Peck, One hundred and first Ohio Volunteers, from January 21, 1863, for absence without leave.

Lieut. S. G. Wright, acting assistant quartermaster, Thirty-sixth Brigade, from November 21, 1862, for signing a false voucher.

Surg. W. H. Myers, Thirtieth Indiana Volunteers, from November 26, 1862, for stealing horses, abandoning his post when regiment was marching in the face of the enemy, he being the only medical officer on duty, and absence without leave.

Lieut. G. P. Stiles, Thirty-first Ohio Volunteers, from February 2, 1863, for absence without leave for more than sixty days.

Lieut. S. B. Conn, Sixty-fourth Ohio Volunteers, from February 2, 1863, for absence without leave for more than sixty days.

Second Lieut. Arthur Bennett, Seventy-seventh Pennsylvania Volunteers, from February 2, 1863, for absence without leave.

Capt. Henry D. Wishart, Seventy-seventh Pennsylvania Volunteers, from February 2, 1863, for cowardly conduct in the face of the enemy and deserting his company during the action of December 31, 1862, at Stone River, under the disgraceful pretext of sickness. The general commanding regrets that he has not the authority to inflict the sentence of death.

Lieut. Seth L. Woodworth, Company B, Seventy-ninth Illinois Volunteers, from February 2, 1863, for skulking in the rear at the beginning of the battle, disobedience of orders, and pretending lameness.

Capt. M. L. Paulus, Ninety-third Ohio Volunteers, from February 5, 1863, for being absent without leave and without sufficient cause from December 31, 1862, to January 3, 1863.

Lieut. Reuben Platt, Ninth Indiana Volunteers, from February 9, 1863, for repeated insubordination, absence without leave, and misdemeanor when the regiment was marching against the enemy.

By command of Major-General Rosecrans.

C. GODDARD,

*Assistant Adjutant-General and Chief of Staff.*

Without speaking of any member of the House of Representatives, I canspeak of the General. When he appeals to this country to reinstate Fitz-John Porter, who was tried by a court-martial, who was convicted by a court-martial lawfully organized, and the sentence approved by the President of the United States, I ask him who appeals for the restoration of those fifty-one poor volunteer officers who were dismissed by a stroke of his pen without anything on the records as to what they were accused of except his own statement? I should like to see the tender heart turned toward the poor unfortunate volunteer as well as toward the man who happened to have been educated at the expense of the Government. Who pleads for those men? Who introduces bills to restore those men? No Senator, no Member of Congress, nobody pleads for them. Nobody asks that the tender heart shall turn toward them, dismissed without a court, without a trial, by merely the will of the commanding officer. Yet we are told that this is all right. They were mere volunteer officers.

#### HOW TO-DAY'S RECORD STANDS.

But, sir, that is about the way matters are moving in this country now. There is a class that must feed on the bounty of the Government; kicked out of the Army or not, it makes no difference, they must be put back and they must be supported by the Government. They are asking reinstatement by Congress every day. Why? Because at some time they performed service. They have been dismissed very true (dishonorably), but no difference.

Sir, there were two millions of men who performed service in this

country, volunteer soldiers, privates and officers, and no bill has ever passed the Senate to put one of them on the retired-list; and not a volunteer officer has ever been placed there; no matter how badly wounded or shattered or torn, it makes no difference. A man has to go through the portals of the regular Army to receive the bounty of this Government on the retired-list. Whether he be armless, without legs or eyes, it makes no difference. If he was a poor volunteer, kick him out of the service by an order, not by a trial, and it is all right; but if a man who happened once to belong to the regular Army fails in his duty, disobeys orders, shows his disobedience and his contempt for his superior officer, all that side of the Chamber come up in solid phalanx for him, and they generally obtain a few allies from our side for the purpose of helping them along to reverse history. Men who attempted to destroy the Government, when forgiven (and I say this with all due respect—they will not complain, for they did try to destroy the Government), come to you, and undertake to reverse history on your side of the case, and you rush forward to assist them in doing it, and expect to gain the plaudits of the people of this country for so reversing history against the Union people of this Government; it is done on the ground of charity. Charity for what? Charity for your country? Charity for truthful history? Charity for a person. Therefore reverse the history of the case, turn the wheel backward, cast a stigma upon two dead Presidents, upon an honorable court-martial, for the benefit of a man who failed in the hour of trial to perform his duty toward his country. If that is the course that is going to be pursued it will not be long until all the history of the war will in a certain sense be reversed.

I for one, no matter what men may say, will follow my convictions of right. I am charged with following this man unnecessarily. I follow no man. I have my honest convictions and by my convictions I will stand. If I were the only man in this country who would stand in the Senate Chamber and defend the name and fame of Lincoln, Garfield, and the men who condemned this man, I would say, solitary and alone, "I will stand here in defense of right against a man who tries to tear down the reputation of those men in order to build up one for himself which he does not deserve."

#### THE SECOND BRANCH OF THE CASE.

Mr. President, I now desire to call the attention of the Senate to the second branch of this case, which is in reference to the 29th of August, 1862, and the orders on that day. I will not go over the testimony in full, for I propose by leave of the Senate to file the evidence in the case with my argument to sustain every proposition that I make. I have it compiled from the records as sworn to.

What is the case of the 29th of August? The Senator from New Jersey [Mr. SEWELL] commenced his speech by having a letter read from General U. S. Grant. If there is any one in this country who has a higher admiration for the military genius of General Grant than I have, I do not know him. I served under General Grant for three years. I went into the Army almost at the same time he did. I have known him for a great many years. I would not say one word that would deprive him of the great reputation that he has justly won before the American people. I will take his letter as read by the Senator on yesterday, and I propose to examine the paragraph for myself upon which he laid so much stress and see what I can make of it.

#### THE BATTLE ON THE 29TH OF AUGUST.

The controversy in this case on the 29th is about three orders. The first order was issued about 6 o'clock in the morning; the second was



the joint order; and the third was the 4.30 order, which it is said he did not obey, nor, strictly, any of them. On that point the Senator from New Jersey makes the same mistake that all persons have made who defend Fitz-John Porter for the disobedience of that order. They insist that there was no battle on the 29th. If there had been a battle on the 29th, then Fitz-John Porter was guilty; but inasmuch as there was no battle on the 29th, he could not be guilty of violating an order to fight when there was no fighting to be done. That is the reasoning.

The proposition is this: If there was a battle on the 29th, and Fitz-John Porter failed to fight when he was ordered to fight, then he is guilty; if there was no battle, he is not guilty, as there was no fighting to do. Is not that it?

Now, let us see if General Grant does not fall into the very same error. What does he say?

Until in 1881—

Mark the language, and I call the Senator's attention especially to it:

Until in 1881, when I re-examined for myself, my belief was that on the 29th of August, 1862, a great battle was fought between General Pope, commanding the Union forces, and General Jackson, commanding the confederate forces; that you, with a corps of twelve or more thousand men, stood in a position across the right flank of Jackson and where you could easily get into his rear; that you received an order to do so about 5 or 5.30 o'clock, which you refused to obey because of clouds of dust in your front, which you contended indicated an enemy in superior force to you; that you allowed Pope to get beaten while you stood idly looking on, without raising an arm to help him. With this understanding—

Now mark the language—

and without a doubt as to the correctness of it, I condemned you.

What does he mean by this statement? He means that if there was a battle on the 29th and Porter stood there with twelve thousand men and did not fight, and did not attempt to fight, he was guilty and Grant condemned him; but since he ascertained that there was no battle on the 29th he has changed his opinion. That is the whole case as General Grant puts it. I will agree with Grant on that proposition. I agree right here that if the evidence does not show that there was a battle fought on the 29th that I may be wrong so far as the order to attack is concerned, and if I cannot show by confederate and Union testimony that there was a battle fought on the 29th, and not only that, but by the report of the Senator himself, who says in his report that he had to change one battalion of his regiment to the position of the other on account of exhausting his ammunition—that is substantially the language of the Senator's own report—on the 29th, the battle was raging so furiously; in this I am not mistaken.

#### CONFEDERATE TESTIMONY.

Now let us see whether I am correct. These gentlemen do not like the evidence that was taken before the court-martial. It does not seem to agree with their case. They want confederate testimony. Inasmuch as they want confederate testimony let me give them a little of it. I bring General Lee now to prove my side of the case as I state it. General Lee says—I read from his official report:

Generals Jones and Wilcox bivouacked that night east of the mountain—

That is the night of the 28th; I do not want to consume time in reading the whole report—

and on the morning of the 29th the whole command resumed the march, the sound of cannon at Manassas announcing that Jackson was already engaged.

That was at 9 o'clock in the morning.

Longstreet entered the turnpike near Gainesville, and moving down toward

Groveton, the head of his column came upon the field in rear of the enemy's left—

That is in the rear of Pope's left—

which had already opened with artillery upon Jackson's right, as previously described. He immediately placed some of his batteries in position, but before he could complete his dispositions to attack, the enemy withdrew, not, however, without loss from our artillery. Longstreet took possession (position?) on the right of Jackson, Hood's two brigades, supported by Evans, being deployed across the turnpike and at right angles to it.

Now he goes on and gives the description, and winds up with saying:

While this demonstration was being made on our right a large force advanced to assail the left of General Jackson's position, occupied by the division of General A. P. Hill. The attack was received by his troops with their accustomed steadiness, and the battle raged with great fury.

#### THE TESTIMONY OF UNION OFFICERS.

That is the language of Lee. The battle raged with great fury on the 29th. Now, I can prove it by every report made by Union officers, and I have the names of the different ones making the reports, and I will give them—

Mr. EDMUNDS. How far was Porter from that battle at that time?

Mr. LOGAN. About two miles to the left.

Mr. EDMUNDS. Then he could have heard the cannon.

Mr. LOGAN. The evidence all shows that his troops heard the artillery all day.

Now let me show you the number of reports of Union officers, and I especially call the attention of the Senate to them. They are as follows: General Pope, General McDowell, General Reynolds, General Schenck, General Robinson, General Grover, General Kearney, General Sigel, General Milroy, General Stahel, Lieutenant Haskins, General Carl Schurz, Lieutenant-Colonel Muhleck, Colonel Kryzanowski, and divers other Union officers' reports, and each and every one of them not only show a battle but heavy loss on the 29th, and not only that, but I assert the fact and will put it in evidence that the battle was desperate and bloody. The fight was so severe that the confederate reports show that all the field officers of one whole command were lost save two.

And yet with all these facts before the country and before this body, Senators will say there was no battle on the 29th.

I will now give the names of the confederate officers who made reports of that battle. Here is the report of the Senator from New Jersey. He was in the battle—I have quoted it—he says he was out of ammunition and changed one-half his command around in order to let the others have a chance, his ammunition being exhausted. The Senator knows this to be his report. That was on the 29th.

Mr. SEWELL. Will the Senator allow me to interrupt him?

Mr. LOGAN. Certainly.

Mr. SEWELL. There is no question of the fact that there was severe fighting on that day. It was by isolated brigades, though; it was not a general battle.

Mr. LOGAN. "Isolated brigades." Yes, I should say there was one isolated command that did not fight at all. [Great laughter.] But you may call it what you please. Sir, you know if you are a military man—and I do not doubt the proposition; you served honorably during the war—there never was a battle fought yet when all the troops on both sides were engaged at the same time, unless it was a mere small detachment. There is no man certainly who was in the Army but knows that battles were all fought by brigades and divisions, one fighting now and another again, and so on as different movements were made. There is my friend who has an honorable record as an army officer [Mr.

MILLER, of California]; he knows that what I say is true. Every man who has served in the Federal or confederate army knows the same thing. On the 29th every man you had under Pope except Porter was engaged in battle that day, and yet you say it was not a battle, and on that ground General Grant says because there was no battle on the 29th Porter ought to be excused, but if there was any battle on the 29th he "condemned him."

WHAT GENERAL GRANT'S LETTER PROVES.

Now, what does Grant's letter prove? It proves exactly what you do not want proven. It proves that if there was a battle on the 29th Porter was properly condemned. You agree there was. Therefore he was properly condemned. There is the kind of argument that you have used in this case from the time it was first before Congress, denying that there was a battle on the 29th when Lee, Longstreet, Hood, Jones, Ewell, and Jackson and the whole confederate forces recognize the fact and report that there was a severe battle, a severe struggle on that day, which is corroborated by your own officers, and the excuse made is that there was no fight on the 29th, therefore Porter is not culpable because he did not fight, for there was no battle going on.

If there was a battle on the 29th, Porter was guilty. I said I would stake the whole case on that proposition and take General Grant's letter to support my statement; and the very evidence that the Senator from New Jersey introduces to support his side of the case when the facts are brought to light condemn his friend.

ORDERS TO POPE.

On the morning of the 29th, General Porter was lying near Manassas Junction; he received a verbal order. Without referring to the date I will try to give it correctly, for I do not want to detain the Senate by reading it, but I will put these orders in my remarks. I can state them. As I said, on the morning of the 29th General Pope sent a verbal order to General Porter ordering him to push as rapidly as possible towards Gainesville, that if he did not move expeditiously we would lose much. General Porter refused to obey that order because it was not in writing. I have a letter from the man that carried that order to General Porter. Porter admits in his own statement that he received that order but he wanted it in writing. Then General Pope had to give him an order in writing. This is the order:

HEADQUARTERS ARMY OF VIRGINIA,  
Centreville, August 29, 1862.

Push forward with your corps and King's division, which you will take with you, upon Gainesville. I am following the enemy down the Warrenton turnpike. Be expeditious, or we will lose much.

JOHN POPE,  
Major-General Commanding.

The object of this order was to enable General Porter with a large force to intervene near Gainesville, on the Warrenton pike, between Jackson and Longstreet, and thus regain the advantages lost by the retreat of King and Ricketts early that morning. After that order was given in writing Pope issued what is called the joint order—the McDowell and Porter order. That order directed McDowell and Porter to march in the direction of Gainesville until they moved far enough to throw the right down on to the left of the army of Pope and to be in position that night, so that if they had to fall back to fall behind Bull Run.

HEADQUARTERS ARMY OF VIRGINIA, Centreville, August 29, 1862.

GENERALS McDOWELL AND PORTER: You will please move forward with your joint commands towards Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are mov-

ing on the Warrenton turnpike, and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own the whole command shall halt. It may be necessary to fall back behind Bull Run, at Centreville, to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall on the enemy's flank and rear. I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts and instruct him to join the other division of his corps as soon as practicable. If any considerable advantages are to be gained by departing from this order, it will not be carried out. One thing must be held in view—that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here to-morrow night or the next day. My own headquarters will, for the present, be with Heintzelman's corps or at this place.

JOHN POPE,

*Major-General, Commanding.*

#### AN EXPLANATION OF THE JOINT ORDER.

There ought to be an explanation of this order. It is not very entertaining to the Senate to deal with maps, but I used to have a good deal to do with them when I had charge of a corps and also of an army, and therefore I naturally take to them. Why was the order given in that way? It is very simple when understood, as it may be if any one will look at the military situation, and I will explain it in a moment.

Jackson had moved around from Centreville by Sudley Springs, behind what is called the Independent Railroad, which was a cut, and formed his line in rear of the railroad cut, letting his right run up in the direction of the road that ran from Gainesville to Centreville. Bull Run Creek runs down in this direction [indicating]. They were to move from Dawkin's Branch up to Gainesville, striking this turnpike road. The intention was to strike the turnpike, and the fact that Porter was told to be in a condition to fall back behind Bull Run shows that to be true, because on the road that he was then marching he could not fall behind Bull Run without traveling clear around to Centreville, but by passing through and letting his right swing over to this road he would be on the turnpike road which passed down across Bull Run to Centreville on this turnpike. That was the situation, and that is what Pope intended. After Porter had gone as far as Dawkin's Branch, five miles away from Gainesville, he says that, seeing dust, &c., he concluded to stop there. I do not give his language, but that is the substance. He did stop there; he staid there the whole day; that is, the head of his column did.

Mr. SEWELL. Will the Senator allow me a word?

Mr. LOGAN. Certainly.

Mr. SEWELL. The evidence of General Butterfield goes to show that he threw a brigade across Dawkin's Branch, his line deployed, and he rode in advance of his brigade to look at the ground, when suddenly his brigade was withdrawn, and he found McDowell and Porter together. It was on McDowell's order that it was withdrawn, and he says, "Put your troops in here to the right; you are too far out."

Mr. LOGAN. If the Senator had just waited a moment he would have gotten all the facts and more than he has given. I was stating that at Dawkin's Branch he stopped. That is true, is it not? McDowell came up with him at Dawkin's Branch. They had some conversation. He says that McDowell told him to put his troops in here. McDowell, he states, said this is no place to fight a battle. McDowell declares he did not say so; but that is immaterial.

Porter said, "If I put my troops in I will get into a fight." McDowell replied, "That is what we came here for."

General Butterfield, of whom you speak, did not take his brigade, but he took part of it, went across the branch into open ground, and he says that he expected that an attack would be made, that he looked around and his whole regiment was gone, and he was left there by himself. He says he does not know how his regiment got away. He does not know who ordered it away, and does not know anything about it except that he was left there with one staff officer.

Mr. SEWELL. Give the rest of it.

Mr. LOGAN. I will give the whole of it as I go along. General Porter went back to Bethel chapel, two miles and a half, or three, to the rear of Dawkin's Branch, at the junction of the roads. There he staid the whole day; his corps was lying along that road with their arms stacked, and he never moved them one inch. Morell's brigade was up to the front, and he put skirmishers out, and the only order that Porter gave to Morell during that day was to deploy a regiment, which he did. The next order he gave was to hide them in the woods, which he did all except one battery, that Morell says he could not get in—Hazlett's battery; he could not get it into the woods under cover. That was the only order he got until late in the afternoon, after 6 o'clock in the evening, and Porter says that from the dust in the road he imagined or thought that a great force was marching down upon him, and therefore he hid his men in the woods.

I want to take the argument the Senator made yesterday. He said the judicious and soldierly conduct of Porter saved that army from destruction; that holding his troops in front of Longstreet kept Longstreet from moving off against Pope and destroying Pope; holding them there so long as he could have them in view. He did not have them in view, because he hid his men in the woods so that Longstreet could not see them. He says so and the Senator knows it. Instead of holding them in view to deter Longstreet from moving on Pope, he hid them in the woods so that they could not be seen, and so let Longstreet move on Pope. Not only that, sir, but before I get through, instead of your twenty-five thousand troops in front of Fitz-John Porter, I can demonstrate from the evidence that Longstreet had but six thousand that he could have used against Porter. He (Longstreet) never had twenty-five thousand troops under him present on that day, and I will prove that by Longstreet's own statement.

Mr. Porter, he says, obeyed the joint order. He was to go to Gainesville. Porter says, or the Senator says for him, that Porter could not fall over to the right; he could not move to the right so as to join Pope on the left. Why does he say that? Capt. James Stevenson, who is well known to many Senators here—he is connected with the Geological Survey—was a captain in a New York regiment. He was sent to Porter's corps for the mail, and he crossed from Pope's left through these very woods on horseback with the mail. During that very time that Porter says Longstreet had twenty-five thousand troops right in his front this man Stevenson rode by himself on horseback and carried the mail over to Porter's corps. One man on horseback could pass through these woods unmolested, and Porter was afraid to go in there for fear he would be destroyed with his twelve thousand men.

#### THE NUMBER OF TROOPS ENGAGED.

Let us see for a moment how many troops were there. This map shows that Longstreet first formed his men on Pageland Lane. Here [indicating] was Jackson's right. Longstreet formed, throwing his left around on Jackson's right. Here was Pope throwing his left up this road, the turnpike road [indicating]. Porter, then, by moving here, would

have struck Longstreet on the right flank; and according to all the testimony and the maps that your own friends have made for you, if he had moved forward on that road he would have struck Longstreet on the right flank. There is Longstreet's right flank, and there is the road passing up to the right of Longstreet. He could not have moved without striking him on the right flank. If Longstreet had met him he must have thrown his left around here [indicating] to face Porter instead of already facing him, as he is said to have been. This statement about its being impossible for Porter to pass on to the right of the enemy is sheer nonsense.

Now, let us see if we can find about how many troops were in Porter's front. I take General Longstreet's report, General Lee's report, General Wilcox's, General Hood's, General Anderson's, and see what they state. Longstreet on the 29th had (General Wilcox's brigade, Featherstone's brigade, General Pryor's brigade) six thousand three hundred men; General Hood (Texas brigade, Law's brigade, Evans's brigade) six thousand three hundred men—they average up very nicely according to their statements; I do not know how they got them so evenly—General Kemper (Kemper's brigade, Pickett's brigade, and Jenkins's brigade) six thousand one hundred men; and General Jones (Drayton's brigade and Toombs's brigade) six thousand three hundred men, making in all twenty-five thousand men. That is the number that General Longstreet gives.

Now, let us examine the testimony for a moment. General Lee says in his report that General Anderson's division came up in the evening of the 30th. General Anderson's division was seven thousand men, according to the testimony. They came up in the evening of the 30th, and not on the 29th. Now, subtract that from your twenty-five thousand and how many have you? Take a pencil and make your figures. The Senator says there were twenty-five thousand in front of Porter; we have got them down to eighteen thousand.

Now let us see what General Lee says and what General Longstreet says. They say that Wilcox's division, Kemper's brigade, Jenkins's brigade, and Evans's brigade, Hutton's and Hood's divisions went into action at Groveton at 4 o'clock, in all making over twelve thousand men taken from the eighteen thousand men, that went into action at Groveton at 4 o'clock. Lee had sent Wilcox's division, he says in his report, over to support Jones. Jones's brigade was over on the railroad, near the Cole house, watching Porter, when he saw some movement made, and that was the same time Porter hid his men in the brush. Wilcox's division was sent to support Jones; but Lee says, and so does Longstreet, that the column disappeared immediately. They do not say where, but Porter explains that they disappeared in the woods. Then he says he withdrew Wilcox's Division and threw it down to Groveton. There are twelve thousand men withdrawn from that eighteen thousand and sent to Groveton in action against Pope's left; and Longstreet and Lee both say that they remained there until 11 o'clock at night before they withdrew from Groveton. Now how many have you left in front of Porter? Six thousand men, and that was Jones's command, and his support—but six thousand men. The evidence shows that Longstreet did not have another man there anywhere near Porter, and they were not in his front; they were over by the railroad, and that is the only command that Longstreet had anywhere near Porter at 4 o'clock, and during the whole time from 4 o'clock until 11 o'clock at night, and at 11 o'clock at night he says they withdrew to their line, which was at Pageland lane, and not in front of Porter, so that Mr. Porter, when he received the order, instead of having

twenty-five thousand men in his front had but six thousand men, not in his front either, but in a position where they could have probably been employed against an assault.

The truth is, Stuart's report shows, and so does Porter's report, that the dust was thick; and Stuart says the dust was made by drawing brush along the road. I have repeated this before, and I do not wish to refer to it again, but that is the evidence in this case, and the evidence is what we must be guided by.

WHAT PORTER SAID BEFORE THE COURT-MARTIAL AS TO THE FORCES IN HIS FRONT.

In order to sustain what I say about that, suppose we take what Mr. Porter says. I want to call the attention of the Senate to this fact. Mr. Porter and his friends insist that there were twenty-five thousand men in his front and that he knew it, and Pope did not. I believe that is the statement. Fitz-John Porter stated to the contrary before the court-martial that there must have been from ten thousand to fifteen thousand men in his front. Now he says there were twenty-five thousand; the Senator says so, and he knew it then, he says; but yet in his statement before the court-martial Porter said there must have been from ten to fifteen thousand men. How is it that he did not know then that there were twenty-five thousand, when he now claims that he did know it? If ten thousand, he (Porter) had more men than they had, for his morning report showed that he had thirteen thousand men for duty on the 29th. Twelve thousand five hundred is the estimate that is given by the witnesses. When he believed there were not more than ten or fifteen thousand he would not attack. Now, the Senators who try to excuse him say there were twenty-five thousand. When did they make this grand discovery? When you come to examine the reports of the confederates showing the number of men that they had in battle that day at Groveton, it turns out that Longstreet had but six thousand men anywhere near where Porter could have got at them at all. All the reports agree in this. Wilcox, who was here on duty in the Senate, makes the same statement as to the number moved to Groveton at 4 o'clock. In all the letters that they have written they do not pretend—that is dodged artfully—to state where their troops were that day.

Six thousand men! He did not even know that. How could he know anything about it? He was back at Bethel chapel the whole day, five miles away from the enemy.

Mr. SEWELL. Does the Senator want me to answer that question?

Mr. LOGAN. Certainly.

Mr. SEWELL. You have a recollection of the Buford dispatch?

Mr. LOGAN. I have.

Mr. SEWELL. That covers the ground.

Mr. LOGAN. Covers what ground?

Mr. SEWELL. That the troops were there.

Mr. LOGAN. Where?

Mr. SEWELL. That they passed through Gainesville.

Mr. LOGAN. Does that prove that they were in Porter's front?

Mr. SEWELL. Certainly. It was the only way they could get there.

Mr. LOGAN. The Senator is an artful man and I like these dodges. Now let me show the Senator the map.

Mr. SEWELL. I know it.

Mr. LOGAN. Yes, you know it; but I will explain it to others who do not know it. There is the road [indicating]. Buford says they were marching on down there. Here was Porter over here [indicating].

Seventeen regiments of infantry marched through Gainesville at 9 o'clock, says Buford's dispatch, but he never said they were marching in the direction of Dawkin's Branch. He said they were marching on the pike, and that is the pike down to Groveton; and General Lee in his report says that they marched down the pike to Groveton and went into battle against Pope's left; but the Senator will insist on saying they were in front of Porter, while he can not find a scintilla of testimony that supports him in such a statement.

Mr. SEWELL. You will find it in General Longstreet's report and his evidence.

Mr. LOGAN. You do not find General Longstreet saying any such thing. General Longstreet says his corps amounted to twenty-five thousand men, and I do not doubt that; but in his report he tells us that all his corps were in the fight at Groveton except one division. I know what Longstreet says. He says that he had twenty-five thousand men in his command, and if this man had attacked him any time after 12 o'clock he would have been terribly abused, but does not say his men were on the ground. I have his evidence, and here is his report made as soon after as possible, which says that D. H. Anderson came up on the 30th late in the day.

I ask the Senator whether he takes the report of a man made immediately after a battle? Mr. Longstreet and several other gentlemen who belonged to the confederate army have tried to make this matter as easy as possible for Fitz-John Porter; nobody doubts that. But I am taking their reports as they made them, the report of Lee, of Longstreet, of Jackson, and the whole of them, and they all agree that these troops were in the battle at Groveton on the 29th and not in front of Porter. And will any Senator tell me that the reports of Jackson, of Longstreet, of Lee, of Wilcox, of Hood, of Evans, and of all these men who were under Longstreet and engaged in battle that day, made within the next few days, are not true, and that Longstreet after loss of memory in twenty years shall contradict the whole thing; which, however, he does not do? No, sir; I defy any man to take the reports of the confederates themselves and disprove the statement I have made; they prove it, sustain it in every particular. And nowhere in the evidence of any of them do they contradict the fact that the troops I mention were engaged at Groveton on the 29th.

#### THE 4.30 ORDER.

Now let us examine the 4.30 order, which was as follows:

HEADQUARTERS IN THE FIELD, August 29—4.30 p. m.

MAJOR-GENERAL PORTER: Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and if possible on his rear, keeping your right in communication with General Reynolds. The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,

*Major-General, Commanding.*

General Pope was near the right of his line. General Ricketts was with him, and kept note of the movement of troops on that day. General McDowell withdrew from Porter at about 12 o'clock with his division, and he went from Bethel chapel up the Sudley Springs road until he struck the pike running to Groveton; he took that, and arrived there and put his division in battle on the left center. At the time he was going into battle, when he reported to Pope, he (Pope) had concluded to make a movement along the whole line and to assault the



enemy at every point. So he sent an order to Porter then to assault and strike the enemy on his right flank or in the rear; that he must do it at once, and the men under McDowell moved forward; his whole army moved forward. It was about 6 o'clock, when it moved forward, and he expected Porter to do the same thing. Instead of that, he (Pope) had Longstreet's whole corps, except Jones's division, in his front at Groveton, and Porter, lying with his arms stacked for three miles along the road, never moved nor did he fire a shot. Was there any excuse for that? They say he did not receive the order in time. When did he receive the order? He says at 6.30. The Senator said yesterday at 6.30. The evidence, however, does not bear him out in that statement.

I know the fact that when a Senator makes a statement it is sometimes taken against the sworn testimony of the witnesses if it serves the purpose, but it does not serve mine so well. The evidence of Pope's aid who delivered that order, the evidence of the orderly who went with him, is that it could not have been later than half after 5 o'clock when that order was delivered. The sun on the 29th day of August, 1862, set at 6.36, and he received the order at half past 5. But suppose he did not receive it until 6.30. Take that for granted for the sake of the argument. He had then nearly two hours of daylight in which to have made his assault; and will any man tell me that Longstreet was right in his front? If Longstreet was immediately in front Porter did not have far to go to strike the enemy, and why did he not do it? Why did not that soldier—whom Senators speak of as being a grand soldier—strike the enemy? It may be very well for Senators to say that he was a man of great experience; he was a man of great genius; he knew more than Pope. That is the argument. Pope was an ignoramus and this man was a wise man; and therefore, being a wise man, he knew better than to fight when he was ordered to fight, because the man that ordered him did not know as much as he did!

Fitz-John Porter is a man of great imagination, and a man who thinks he can overturn the history of the country, and that he does find help to do it I agree. He finds help on this side that he ought not to find; he finds men helping him who ought not to assist, but still they are found.

#### WHAT PREVENTED THE ASSAULT?

Now let us see for a moment whether he could have assaulted or not. I repeated a moment ago from history the fact that at the great battle of Waterloo the last assault made by Napoleon's guards on the guards of the Iron Duke (Wellington), was made after 8 o'clock on the 18th day of June, 1815, and there the order was given by Wellington that has gone down into history, "Up, guards, and at them!" And at 9 o'clock Wellington formed his line and moved forward and broke the French army into pieces; and yet Fitz-John Porter could not move at 6.30, when the Senator says that he had his troops up at Dawkin's Branch deployed ready to attack! Why did he not do it?

Mr. SEWELL. Will the Senator allow me to interrupt him?

Mr. LOGAN. Certainly.

Mr. SEWELL. The head of his column was deployed ready for an attack, but his whole troops were not in line, the joint order did not contemplate the fighting of a battle at that place, but it contemplated going to Bull Run. He was in a position to hold himself to protect his own column on the road and to hold Longstreet there.

Another item I would call the Senator's attention to: the twilight at Brussels is entirely different from the twilight at Bull Run; it lasts about two hours later.

Mr. LOGAN. If the gentleman would take two hours off, we should have it exactly, and in doing that Wellington's attack would, according to the Senator, be an hour after dark. So that does not help the Senator's case.

I wish to answer the Senator in the same way he tries to answer me. He says the reason was that the joint order did not contemplate an attack. That was the order issued in the morning. I am talking about the order of 4.30, which directed him to attack at once; but the Senator says because the previous order did not contemplate an attack, therefore he had no right to obey the 4.30 order. In other words, to illustrate: if the rebellion is going on and I am ordered to move on Jackson, Miss., from Vicksburg and to be there at a certain time, because the troops at Jackson were going to attack, and I meet some troops on the road, I say, "Well, I will not fight these fellows, because I am ordered to go to Jackson before I fight." [Laughter.] That is the reasoning of the Senator.

Mr. SEWELL. The Senator drew a comparison between Wellington at Waterloo and Porter on Dawkin's Branch. He is perfectly right about the time at Waterloo, but there had been a fight going on there all day in open sight, open view.

Mr. LOGAN. So there had been at Bull Run since 9 o'clock.

Mr. SEWELL. There I differ with the Senator in opinion, and I say there the Guard were in line and they could not help it.

Mr. LOGAN. The difference is this: Napoleon's Guard had not been in the battle at all at Waterloo, and they never engaged until 8 o'clock, when they were ordered to assault the guards of Wellington. That is just the position this man Fitz-John Porter was in. They were the reserve of Napoleon's army and had not been engaged in battle, but they assaulted at 8 o'clock and Wellington assaulted at 9. The battle had been going on the major part of the day, and so had the battle of Bull Run from 9 o'clock in the morning until 9 o'clock at night, and yet your friend did not assault! No time in the day was proper for him to assault and no part of his column was in action.

Mr. EDMUNDS. You mean that the cannon were still firing at half past 8?

Mr. LOGAN. I mean the battle was still going on at 9 o'clock and did not cease until that time. I mean that McDowell's corps commenced its battle at 6 o'clock and continued to 9 o'clock, as the reports on both sides show. Assault after assault was made, and yet Porter's Army Corps could not assault but the confederates could. Longstreet's corps could assault at Groveton at 8 o'clock at night, moving down at 4 o'clock to do it, but we could not do it. Oh, sir, it is a handbox soldier that must only fight by sunlight. When did Sheridan ever ask for daylight, if necessary to save a battle?

#### A FEW COMPARISONS.

I should like to give a little experience here just for the benefit of the Senator. I do not know whether any of my friends on the other side were there or not. If they were, they left early; they will remember that. At the battle of Resaca General Thomas R. Woods, the brother of Judge Woods, of the Supreme Bench, commanded a division, and Judge Woods commanded one of his brigades. They were in my command. At 9 o'clock at night at Resaca, under my orders, General Woods assaulted the line of works of the rebels, a curtain running from the fort down to the river, and took it when it was so dark that you could not see where the line of works was. I sat on my horse and could only tell the position of either side by the flash of the guns.

Talk about being destroyed! I will give you an instance of one brigade at the battle of Baker's Creek, where thirty thousand of the enemy were opposed to two divisions of our troops. One brigade, a small brigade at that, under my orders marched two miles down a ravine and moved into the rear of those thirty thousand men and opened on them, scattered and dispersed them, and we captured much of their artillery and nearly as many men as the brigade itself had. Of course it took its chances; but it did it. If Fitz-John Porter had performed his duty as well as that little brigade did the Army of Virginia would not have been depleted as it was on that day.

THE POSITION PORTER OCCUPIED THAT DAY.

Having disposed, as I believe at least, of the question of the number of troops in front of Fitz-John Porter at that time, let us come back to the proposition for a moment and see the position he occupied during that day, to show whether he intended to engage in the contest. As I said, his troops were lying on the road from three to four miles, with arms stacked, during the day. He had but two regiments deployed at any time during the whole day, and then he withdrew them and put them in the brush. Further than that, when he received that order, will the Senator insist that he ever told one of his officers, staff officers or anybody else, that he had received an order to attack? The evidence shows that when that order was delivered to him he was lying down under a tree resting. The order was handed to him; he read it, folded it up, and put it in his vest pocket. General Sykes, who was sitting by his side, testifies that Porter never told him what the order was; that he never knew that Porter had received an order to attack. Morell says the same. Every commander that he had who has given testimony at all testifies that he did not give them any information that he was directed to attack at any time or any place. So when he sent word to Morell to put his command in line, Morell says that he was deploying his regiment, and while he was deploying it he got an order to withdraw it and go into camp for the night.

Fitz-John Porter was charged with having allowed some of his officers to retreat during the day. That has been persistently denied. The evidence does show that when General Sturgis reported to him with his brigade and informed him that there was a battery being established in his front and called his attention especially to it, he said no, and gave Sturgis an order not to move forward and assault the enemy. But what was the order? To move back to Manassas and go into a defensive position. That was the order that Sturgis received, and the only one received that day from Fitz-John Porter. Sturgis went into the battle, but he did not go in by the order of Porter. He himself moved his troops to the front and engaged with the enemy on the next morning.

When Porter was ordered to bring his whole command on the battlefield, Griffith's brigade, a part of Porter's command, retired to Centreville, and remained at Centreville during the whole battle. It came there on the night of the 29th and remained there, and never fired a gun. Piatt commanded a brigade, and he makes the statement and publishes it to the world that he received no orders at all. He reported that day, and the only way he got into the battle was by going on his own motion and engaging in the battle on the 30th. He received no orders whatever from Porter. In all the evidence an order can not be found that Porter ever gave to a solitary regiment, brigade, or division to engage in the battle, or even in a skirmish, with the enemy at any time during that day.

Porter received the order I will say at 5.30 o'clock. The Senator says at 6.30 o'clock. What was the order? To move at once, and attack

the enemy on the right flank and in rear, if possible, keeping his right well refused, so as to strike back on the left of Pope's line, using his artillery freely. That was the order given to Porter. Will you tell me why he did not attempt to obey that order? There has not been an order given to Porter up to the present time that he obeyed, except to move forward, which he did to Dawkin's Branch, and there stopped. Then, instead of starting at 6 o'clock in the morning when he was ordered, he did not start until 9 o'clock. In all this case I defy any friend of Fitz-John Porter to put his finger on one order requiring immediate action which he obeyed. He utterly refused to obey any order given to him either to move or to fight.

#### ONE OF PORTER'S EXCUSES FOR REFUSING TO FIGHT.

Suppose we take it for granted that Longstreet had twenty-five thousand men drawn up in line right in Porter's front, what of it? Does a man always expect to fight inferior forces? Many times during the late war the confederates fought us with one-half the number we had. We fought them sometimes with one-half the number they had. The only rule of warfare that I know is to strike the enemy where you find him, if your army is engaged. To say that a man shall not fight because he expects to be whipped is something new in military science. It is something that I have never been taught before. Since I came to the Senate I have learned that this is the idea of some gentlemen, but never during my little experience in the Army did I so understand it.

Speaking of small armies assaulting great ones, the world's history is full of such cases. At the battle of Marathon the Athenians, a handful almost, in the afternoon assaulted the Persian hordes and drove them from the land, slaying six thousand of the Persians, when only about two hundred of the Athenians were slaughtered, owing to the impetuosity of the assault.

Now let me contrast this man's conduct on the 29th of August with the conduct of an officer at the battle of Marengo. There, when the battle was lost, when the troops were leaving the field, when Dessaix said the sun was receding and the enemy advancing, that great soldier, who fell in that conflict, with six thousand men moved forward without orders, assaulted the enemy, and turned defeat into victory. So, too, this man could have done if he had obeyed his orders; but he failed to do it, failed in every instance.

I could name quite a number of victories won by an army inferior in numbers in our war. When Vicksburg was first surrounded with thirty thousand men inside its walls we had only twenty-seven thousand men to impale them there, and miles of our line were only held by a skirmish line. The enemy did not know it, however. It was a mere picket line, that they could have gone through any day or night. They supposed of course that there was a column of troops behind, but it was not true. In many instances throughout the late war cases of the kind occurred. Yet, forsooth, to-day a man with twelve thousand five hundred troops fails to assault an enemy for fear that he will be whipped. A man is a good commander who can possibly command more than that number of troops in a battle. He may command a corps with his division commanders having their orders to manage their divisions; he may command an army with his corps commanders having their orders, but the immediate control of twelve thousand troops in a battle will be satisfactory to the genius of almost any man in military affairs.

#### THE REAL QUESTION IN THE CASE.

There is but one more point in this case that I desire to discuss. The Senator from New Jersey has said that Fitz-John Porter was a good

soldier prior to this time. I do not dispute it. He says he did well the next day. I do not dispute that. It was absolutely necessary for him to do something on the next day. After our army was broken to pieces perhaps he had to help. Nobody questions that. The question before the Senate is not whether a man has been a good soldier or a poor soldier. The question before the court-martial was: Did he disobey his orders; were they lawful; could they have been obeyed?

THE LAST ORDER ISSUED BY POPE TO PORTER ON THE 29TH.

General Pope, finding that it was impossible to have Porter obey any of his orders, finally issued the following order, directing him to march on the battlefield and report to him, with his command, in person, also to note the time of the receipt of the order, for the reason that Porter had avoided noting the time of the sending or receiving of any orders or dispatches during that day:

HEADQUARTERS ARMY OF VIRGINIA,

*In the Field, near Bull Run, August 29, 1862—8.50 p. m.*

GENERAL: Immediately upon receipt of this order, the precise hour of receiving which you will acknowledge, you will march your command to the field of battle of to-day, and report to me in person for orders. You are to understand that you are expected to comply strictly with this order, and to be present on the field within three hours after its reception, or after daybreak to-morrow morning.

JOHN POPE,

*Major-General, Commanding.*

Maj. Gen. F. J. PORTER.

The very issuing of the above is proof that Pope could not get Porter to obey any of his orders, and in fact this order was not literally obeyed, as Porter did not bring his whole command on the field of battle on the 30th.

With all these facts before us who can say that he was unjustly found guilty?

The maxim of Napoleon, "to always march to the sound of the enemy's guns," was totally unheeded by Porter.

To sum up his conduct on the 29th in brief: The battle began at Groveton at 9 o'clock the 29th; he was at Dawkin's Branch at 12 o'clock, on a plain road to Gainesville, within two miles of Pope's left, where the battle was raging; he had his troops stack arms along the road from Bethel chapel to Dawkin's Branch, a distance of three miles; his troops did not move from their position of resting during the whole day. The sound of battle was heard by his command during the entire day until 9 o'clock at night; he was ordered to move to Gainesville in the morning—to push forward. He was ordered to join his right on Pope's left; he was ordered to attack the enemy. He did not obey these orders; he did not try to obey any or either of them. He heard the shock of battle, the shouts of triumph and despair, but he moved not while the red-throated cannon belched forth missiles of death; while musketry rattled as the long-roll on a thousand drums; while infantry assaulted and cavalry charged; while men fell in death's embrace and the wounded cried for help; while the blood of his comrades flowed like water. While his commanding officer and his fellow-soldiers anxiously listened for the sound of his guns, he lay beneath the shade of a tree, putting his orders in his pocket, without informing his officers what they directed him to do. Sir, does history record such action in any soldier prior to this time? Where is the man other than Porter that ever lay with twelve thousand men who were panting to move to the aid of comrades within two miles of a battle for nine weary hours without firing a gun or even trying to ascertain if he could be of any assistance?

Sir, no such case can be found; and we are asked to condemn the court-martial that convicted him for his disobedience of orders. Was

ever such request made by such a man? The only information sent by him during the day to his superiors was that he was going to retire or retreat to Manassas, and this was received just as the battle was hottest. Dust, sir, dust, was his only excuse. Men in buckram haunted him all the day. Let the many widows and orphans made that day and the many graves of brave men who fell on that field, bear testimony against him in all time to come.

This thing of sympathy for a man because he has been punished for disobedience of orders is one thing, but the law and the just verdict of a court is another. You are not asked to sympathize with this man. You are asked to overturn the verdict of a court. You are asked to declare the law contrary to what the law was as expounded by that court. You are asked to reverse the verdict of a lawfully constituted tribunal. You are asked to reverse the record made by the President of the United States. I ask you whether you can do it as a legal proposition? You may do it in violation of the law, you may do it in violation of right and justice in reference to military conduct, but when you do that, do not place it upon the ground that you sympathize with this man, and are justified in your action.

Our sympathy goes out to all humanity. The poor down-trodden man in Europe has our sympathy. The poor man in this country has our sympathy. The man who has to labor night and day should have our sympathy; the sick, the sore, and distressed should have our sympathy; and our sympathy should lead us to do what? To extend to them food or raiment, to give them employment or aid them in all proper ways, but not to do that which overrides law. It is not that which will override justice; it is not that which will override the principles which underlie this Government, and destroy the *morale* of our grand little Army, that can be justified on the ground of sympathy.

THIS BILL ESTABLISHES A DANGEROUS AND BAD PRECEDENT.

Mr. President, when every day poor, unfortunate, crippled officers are having their bills to put them on the retired-list referred to the Military Committee reported against, and why? Because they were dismissed from the service or because they resigned from the service, and therefore are not in law entitled to be put back. That has been the rule in the Congress of the United States, and the exception to the rule is made in favor of a man who was dismissed from the service for wanton disobedience of orders in the time of a great battle. And this is to be made the exception. Why? Will some Senator tell me? Why are these appeals made? I ask when the soldier who sleeps in the far-off grave is forgotten, when only his name is known by the monument that is above him, saying that he fought for his country, and that is all; when he is remembered by a poor little pension to his heirs, a man who stood with his musket in time of battle with courage against the enemy, this pittance is allowed to his heirs; for what? For his loyalty, for being true to his Government, for obeying orders even to the loss of life. But here comes a man who failed his superior officers, who was dismissed from service, and asks to be reinstated—reinstated for what? For disobedience of orders; for failing when failure was disaster. He asks you to put him back in the Army, to be supported with a \$3,000 salary as long as he may live. For what? Sir, if this man is to be restored, where is the Union officer that was wounded in battle, where is the crippled officer to-day, whether he belonged to the regular Army or to the volunteers, who would not be entitled to the same consideration? Yet the Senate would not vote for it. I tell you, Mr. President, make not these distinctions; make not this record. It is not one of honor, nor do I believe the country will so regard it.

## EQUALITY AND JUSTICE TO THE PEOPLE.

I have tried to hurry through and not detain the Senate too long. I say, in conclusion, that the war for the Union was fought to preserve a great Government, to preserve the rights of citizens, to give them protection under the law, and to secure equality of rights and justice before the law. If this act of wrong, as I deem it, shall be perpetrated by the Congress of the United States, it will be declaring that those who failed in the hour of trial are those who shall be honored in the hour of triumph; it will be declaring to the world that the record of those in the Army who failed at the important time is as good as that of those who sustained the Government; that the honor and glory of the whole Army of the United States shall not be maintained alone by the honors it won, but shall be maintained by the honors lost by its unworthy members. When we returned to our homes and our peaceful pursuits, when the armies of a million of men melted away into the paths of peace, we then expected, and ought to expect now, that nothing would be done by Congress at least that would mar that thought that should be in every man's mind, that equality and justice should be done to all according to the laws and Constitution of our land, that justice should be done the living and that justice also should be meted out to the reputation of the dead.

So then for the honor of this nation let not its representatives mar the record that loyalty made in behalf of this great Government and for the benefit of this people.

I have deemed it to be my duty as a member of this body to oppose at all times a proposition of this character, because I believe it to be wrong in theory and certainly wrong in practice. I believe it will demoralize the Army and have a demoralizing effect upon the country.

## DANGER OF THE FIRST STEP.

I say in all kindness to the other side of this Chamber (it will perhaps have no effect), your course, assisted by a few of our side in this case, will prevent the people of this country as long as you shall proceed in this way from having confidence that you intend to administer the affairs of the Government fairly. The opening of the doors for Fitz-John Porter does not mean Fitz-John Porter. It means breaking down the barrier, the wall between the good and the bad and those who failed in time of trial and those who did their duty. It means opening the door on the retired-list to Porter and to other men who failed us in our trials who shall follow in his wake. It means more. I do not care what a few gentlemen who were in the Union Army may say, I do not care what a few gentlemen who were not in the Union Army may say; but the great body of the American people do not believe in breaking down the barriers between the men who failed in time of need and the men who stood at their posts.

When I say that, I am speaking of our loyal people. I mean that the people do not believe in your coming here to regulate courts-martial for us, that we settled during the war. They do not believe it is just; they do not believe it is right. I am speaking the truth to you, and the people will emphasize it hereafter. Let your confederacy regulate its own courts-martial while it existed in opposition to this Union, but do not come here from under that flag with numbers sufficient to put disgraced men back in the Army, to cast slurs upon our men who did their duty, to trample in the dust the authority that suppressed your confederacy. Let not your feelings go that far. If they do, I tell you that more years than you think will pass over your heads before you will have the confidence of the American people.

There are some friends on this side of the Chamber who join with the other side. They are entitled to their views. I say to them, you will open the doors to danger in this country when you do this act. It is not an act of kindness to this man; it is an act of injustice to the Army; it is an act of injustice to the loyal people of this country; it is an act of injustice to the memory of Lincoln and those who were associated with him at the time; it is trampling under foot the law and the facts. You who were the friends in the hour of trial, you who stood by then, should not falter now. You are to-day doing that which you would not have done ten years ago. But to-day the consciences of some people are getting so easy that we must do everything that is asked for men who failed us in the hour of our greatest danger, for men who are entitled to nothing except what they received. We are asked in charity which is no charity to violate the law, to violate the proper rules of civil conduct, to violate the judgment of a court, to violate the order of a President made according to law and in justice, as shown at that time and now. I hope at least that men who have stood by the country in the hour of trial will not weaken in the hour of triumph in the interest of those whose triumph would have proved disastrous to the country.

The conscientious feeling that I have performed my duty according to my honest convictions to my country, to the honor of our now faithful little Army, to my comrades in arms during the war, to the living and the dead that took part in the judgment of the court, to the loyal people that loved this country and helped to save it, shall be in my own breast through life my reward for my action in this case.

#### APPENDIX.

##### EVIDENCE, REPORTS, AND ORDERS IN THE FITZ-JOHN PORTER CASE.

Badeau on the subject of marches, says:

It was late in the evening before Grant reached Burkeville, where he found that Ord had moved to Rice's Station and intrenched in front of Lee. The general-in-chief at once reported the situation to the Government.

And here is his dispatch:

The troops are pushing now, though it is after night, and they have had no rest for more than one week.

That was the way General Grant moved armies.

Now let me show what General Grant understands by an imperative order, by an order that means to be obeyed. Here is his language on page 586 of the third volume of the Military History of U. S. Grant, by Badeau:

I am moving the cavalry column on Appomattox depot. There are eight trains of cars at that point to supply Lee's army. Everything is being run out of Lynchburg toward Danville. Our troops are reported at Liberty. This must be Stoneman.

When Crook received his orders to rejoin Sheridan he was very unwilling to obey, and went in person to Grant to complain.

Crook did not disobey Sheridan's order, but he went to Grant. He was ordered by Grant to report to Sheridan, but was unwilling to obey, and he went to Grant; for what? To be excused from obeying the order. What did he say?

His troops—

Crook said—

were tired and worn; they had marched all day, forded the river, and fought a battle, in which they had been repelled. Not a thousand men were fit to move.

What did Grant say?

But Grant was peremptory; the emergency was immediate; Sheridan had asked, and Crook was obliged to conform. Accordingly, the cavalry crossed the stream again in the night and set out to rejoin Sheridan.



wish myself away from it, with all our old Army of the Potomac, and so do our companions.

I was informed to-day by the best authority that, in opposition to General Pope's views, this army was pushed out to save the Army of the Potomac, an army that could take the best care of itself. Pope says he long since wanted to go behind the Ocoquan. I am in great need of ambulances, and the officers need medicines, which, for want of transportation, were left behind. I hear many of the sick of my corps are in houses on the road very sick. I think there is no fear of the enemy crossing the Rappahannock. The cavalry are all in the advance of the rebel army. At Kelly's and Barnett's fords much property was left, in consequence of the wagons going down for grain, &c. If you can push up the grain to-night please do so, direct to this place. There is no grain here to-day, or anywhere, and this army is wretchedly supplied in that line. Pope says he never could get enough. Most of this is private.

F. J. PORTER.

But if you can get me away, please do so. Make what use of this you choose, so it does good.

F. J. P.

GENERAL POPE'S TESTIMONY RELATING TO MOVEMENTS AUGUST 27, 28, AND 29.

General Pope, the commander of that army, testified as follows:

Maj. Gen. John Pope was called by the Government, sworn and examined, as follows:

By the JUDGE-ADVOCATE:

Q. Will you state to the court what position you occupy in the military service of the United States?

A. I hold a commission as brigadier-general in the regular Army, and as major-general of volunteers.

Q. What was your position and command, and what the field of your operations on the 27th of August last?

A. Do you mean my military position as commander?

Q. Yes, sir.

A. I commanded the Army of Virginia, which, as originally constituted, consisted of the army corps of McDowell, Banks, and Fremont. These, by the 27th of August, had been re-enforced by a portion of General Burnside's command, by General Heintzelman's corps, and on the morning of the 27th by a part of General Porter's corps. A portion of my command also consisted of the troops under General Sturgis, which had begun to come up to Warrenton Junction. I was myself, on the morning of the 27th, at Warrenton Junction. The field of operations of the army at that time covered the region of country between the Warrenton turnpike and the Orange and Alexandria Railroad.

Q. At what time on the 27th did you leave Warrenton Junction, and in what direction did you march?

A. I left Warrenton Junction before midday, I think, though the precise hour I do not remember, and moved east along the railroad, following the movements of Hooker's division, toward Manassas Junction.

Q. At what time did General Porter arrive with his command, or the portion of his command of which you speak, at Warrenton Junction?

A. I think between the hours of 7 and 10 o'clock in the morning of the 27th of August.

Q. How many troops had he then with him?

A. He reported to me that he had brought up Sykes's division of regulars, numbering forty-five hundred men.

Q. Did you see his troops; and, if so, what was their condition?

A. I only saw them at a distance as they passed along; not sufficiently near to ascertain anything about that.

Q. Did you, or not, after you left Warrenton Junction and proceeded along the road east, issue to Major-General Porter an order in reference to the movements of his troops; and, if so, what was the character of that order?

A. I issued an order to General Porter late in the afternoon of the 27th, directing him to move with his command at 1 o'clock that night to the position I then occupied at Kettle Run; that if General Morell, with his other division, was not up to Warrenton Junction when he received that order, to send back and hurry him up, and to come forward himself with the troops which he had. That is my remembrance of the order. I gave him some further directions concerning General Banks's movement, the substance of which I remember very well, but not the precise words.

Q. Will you look at this order, which is dated "Headquarters Army of Virginia, August 27, 1862, 6.30 p. m., Bristoe Station. To Major-General F. J. Porter, Warrenton Junction," and state whether or not that is the order to which you refer in your answer?

A. That is the order I issued.

(The accused admitted that the order shown to witness is the order, a copy of which is set forth in the first specification of the first charge.)

Q. Will you explain to the court the reasons for the urgency of the order, as indicated by the following words of the order: "It is necessary on all accounts that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place?"

A. General Hooker's division had had a severe fight along the railroad, commencing some four miles west of Bristoe Station, and had succeeded in driving the division of General Ewell back along the road, but without putting it to rout; so that at dark Ewell's forces still confronted Hooker's division along the banks of a small stream at Bristoe Station. Just at dark Hooker sent me word, and General Heintzelman also reported to me, that he, Hooker, was almost entirely out of ammunition, having but five rounds to a man left, and that if any action took place in the morning, he would, in consequence, be without the means of making any considerable defense. As it was known that Jackson, with his own and the division of A. P. Hill, was at or in the vicinity of Manassas Junction, and near enough to advance to the support of Ewell, it was altogether probable that if he should learn the weakness of our forces there he would unite and make an attack in the morning. It was for that purpose that I was so anxious that General Porter's corps should be present by daylight, the earliest moment at which it was likely the attack would be made.

Q. What distance would General Porter have had to march to have obeyed your orders?

A. About nine miles.

Q. And within what time; from 1 o'clock until when?

A. He would have had until daylight. I do not remember exactly what time daylight was; perhaps 4 o'clock, perhaps a little earlier. I directed him to move at 1 o'clock, in order to give his command as much time to remain in their beds at night as possible; supposing that it would occupy him perhaps three hours to get upon the ground. I had expected him there certainly by 4 o'clock.

Q. You had just passed over the road along which he was required by this order to march; will you state its condition?

A. The road was in good condition everywhere. At most places along the road it was a double road on each side of the railroad track. I am not sure it was a double road all the way; a part of the way I know it was.

Q. Did General Porter obey that order?

A. He did not.

Q. At what time on the 28th did he arrive at Bristoe Station, the point indicated in your order?

A. As the head of his column came to Bristoe Station I took out my watch; it was twenty minutes past 10 o'clock in the morning.

Q. Did he at that time, or at any time before his arrival, explain to you the reason why he did not obey the order?

A. He wrote me a note, which I received, I think, in the morning of the 28th; very early in the morning, perhaps a little before daylight. I am not quite sure about the time. The note I have mislaid. I can give the substance of it. I remember the reasons given by General Porter. If it is necessary to state them I can do so.

The accused asked if the witness had looked for the note.

The WITNESS. I looked for it, but have not been able to find it.

The JUDGE-ADVOCATE. I will not press the question.

The ACCUSED. I do not object to it. The witness says he has looked for the note and can not find it. I only want to know when and where he has searched for it.

By the JUDGE-ADVOCATE:

Q. What was the character of the night; was it starlight?

A. Yes, sir; as I remember, it was a clear night; that is my recollection.

Q. If there were any obstacles in the way of such a march as your order contemplated, either growing out of the night or the character of the road, will you please state them?

A. There was no difficulty in marching, so far as the night was concerned. I have several times made marches with a larger force than General Porter had during the night. There was some obstruction on the road in a wagon train that was stretched along the road, marching toward the Manassas Junction, in rear of Hooker's division; not sufficient, in my judgment, to have delayed for a considerable length of time the passage of artillery. But even had the roads been entirely blocked up, the railroad track was clear, and along that track had passed the larger portion of General Hooker's infantry. There was no obstruction to the advance of infantry.

Q. Whatever obstacle, in point of fact, may have existed to the execution of this order, I ask you, as a military man, was it, or not, the duty of General Porter, receiving this command from you as his superior officer, to have made efforts, and earnest efforts, to obey?

A. Undoubtedly it was his duty.

\* \* \* \* \*

Q. You mentioned that in going from Warrenton Junction toward Bristoe Station, on the morning of the 27th of August, you saw many stragglers of Hooker's

command on the railroad; were they, or not, in sufficient numbers to have impeded the march of infantry along the track?

A. Shortly after I started east from Warrenton Junction we came upon the railroad again just east of Cedar Run, and from that time until we reached Bristoe Station the road was lined with stragglers from Hooker's division. Those stragglers commenced singly, then two or three together, then half a dozen, until we had got three or four or five miles from Warrenton Junction toward the east, when they began to be in bodies of forty or fifty or one hundred together, marching along the railroad going eastward, between Warrenton Junction and Bristoe Station. I think the most of them had gotten up to their command at Bristoe Station during the night, though I continued to see small bodies of them coming along the railroad track on the morning of the 28th of August. They occupied the whole track during the day of the 27th as we were going eastward, but all of them, or the larger portion of them, got to Bristoe Station during the night of the 27th of August.

Q. Were there, to your knowledge, any openings in the track, such as to have made it dangerous for infantry to march along said track at night?

A. Along the road between Warrenton Junction to Kettle Run, which is perhaps three miles west from Bristoe Station, the track had been torn up in places; but during the day of the 27th of August I directed Captain Morrell, of the engineers, with a considerable force, to repair the track up to the bridge over Kettle Run, which had been burned. He reported to me, on the night of the 27th, that he had done so; so that from Warrenton Junction to the bridge over Kettle Run there was no obstruction on the railroad of any description. The bridge at Kettle Run had been burned; but a hundred yards above the bridge the road crossed the creek by a ford, and from there toward Bristoe the most of the country—in fact, nearly the whole of it—was open country.

TESTIMONY OF CAPT. DRAKE DE KAY—OPERATIONS ON AUGUST 27, 28, AND 29.

I now give the testimony of Captain De Kay, on page 43 of the general court-martial record:

Capt. Drake De Kay was then called by the Government, sworn, and examined as follows:

By the JUDGE-ADVOCATE:

Q. Will you state what position you hold in the military service?

A. First lieutenant, of the Fourteenth Infantry.

Q. What position did you hold during the campaign of the Army of Virginia under the command of General Pope?

A. Aid-de-camp to General Pope.

Q. Did you, or not, on the 27th of August last, bear a written order from Major-General Pope to Major-General Porter, who was then, I believe, at Warrenton Junction?

A. I did.

Q. Do you remember distinctly the character of that order, and would you be able to recognize it again upon having it read to you?

A. I did not read it.

Q. Did you, or not, after its delivery to General Porter, learn from him its character?

A. I was aware of its character by word of mouth, either from General Pope or from his chief of staff.

Q. Will you state its character as you understood it?

A. That he was to proceed at 1 o'clock that night to move up to Bristoe Station with his command.

Q. Do you mean at 1 o'clock on the morning of the 28th of August?

A. Yes, sir.

Q. At what hour of the 27th of August did you deliver this order to General Porter?

A. Between 9 o'clock and half-past 9 p. m.; I think about half-past 9; I could not say within half an hour.

Q. Had you any conversation with General Porter at the time in relation to the order or the execution of the order by him?

A. Yes, sir; some conversation.

Q. Will you please state it, as far as you can recall it?

A. I arrived, as I have said, about half-past 9 o'clock, at his tent, and found General Porter and two or three generals there—General Sykes and General Morell, and, I think, General Butterfield, though I am not sure whether he came in afterward or not. I handed General Porter the order, which he read and then handed to one of the generals, saying as he did so, "Gentlemen, there is something for you to sleep upon." I then said that the last thing that General Pope said to me on leaving Bristoe Station was that I should remain with General Porter and guide the column to Bristoe Station, leaving at 1 o'clock, and that General Pope expected him certainly to be there by daylight, or relied upon his being there by daylight; something of that nature; those may not be the exact words; I only give to the best of my recollection, of course. General Porter

then asked me how the road was. I told him that the road was good, though I had had difficulty in getting down on horseback, owing to the number of wagons in the road; but I told him I had passed the last wagon a little beyond Catlett's Station from this direction. I told him that as they were moving slowly he would probably be up with them by daylight. I also stated to him that his infantry could take the railroad track, as many small squads of men had gone up that way. These small squads, I would state here, though I did not state that to General Porter, were stragglers from Hooker's corps; I should think some six or eight hundred of them, which we passed in going down to Bristoe Station; they all took the railroad track as the shortest and easiest road.

Q. What remark, if any, did General Porter make, either to you or to the generals with him, in reply to your statement in reference to the road and the expectation of General Pope?

A. He stated—I do not think to me; he spoke generally to all who were in the tent—that his troops had just got into camp; that they had been marched hard that day; that they would be good for nothing if they were started at that time of night; that if their rest was broken they would be good for nothing in the morning on coming up with the enemy.

Q. Did you, or not, make known to him that you were there for the purpose of conducting him under the order of General Pope?

A. I did.

Q. Did he, or not, at the moment, announce any purpose either to obey the order or not to do so?

A. I do not recollect precisely.

Q. From the remarks made by General Porter in your hearing, in reply to these statements of yours, was or was not the impression made upon your mind that it was not his purpose to march in obedience to his order?

(Question objected to by the accused.)

The judge-advocate stated that he merely wished to arrive at the fact whether there was any determination made known to the witness in regard to this order in any way; he was not particular as to the form of the question to be asked.

The accused withdrew his objection.)

A. There was no order issued to my knowledge, of course, one way or the other. That would have been done through General Porter's assistant adjutant-general. I can only say that I was aware of the determination not to start until daylight, inasmuch as I laid down and went to sleep.

Q. Do I or do I not understand you, then, to say that there was an evident determination on the part of General Porter not to march until daylight?

A. There was.

Q. Have you any knowledge as to the time at which his troops had arrived at Warrenton Junction?

A. Only the fact that the regulars—Sykes's division—were in camp at Warrenton Junction at about 10 o'clock in the morning of that day, which fact I am aware of from having visited several officers of my regiment in their camp.

Q. These regulars were a portion of General Porter's command, were they not?

A. Yes, sir.

Q. Have you any knowledge how far the troops under General Porter had marched on that day?

A. I have not.

Q. What was the character of the night of the 27th of August?

A. To the best of my recollection, it was a cloudy night, but not rainy.

Q. What was about the distance between Warrenton Junction and Bristoe Station?

A. I supposed it to be ten miles; they say nine miles.

Q. What was the distance from Bristoe Station to Catlett's Station, where you passed the last of the wagons?

A. I can not tell you exactly; six miles, I should think.

Q. At what hour did you pass the last of those wagons?

A. Half past 8 p. m., I should think.

Q. Did you remain over night and wait until the march of General Porter's command the next day?

A. I did.

Q. At what hour, in point of fact, did he move from Warrenton Junction?

A. I should think the head of the column left about 4 o'clock in the morning; I am not positive about the hour.

Q. At what rate did the command march after it left Warrenton Junction?

A. I could not say at what rate. We started at or about 4 o'clock in the morning and marched along quietly, without any apparent haste, meeting with no obstruction or detention, except that arising from the wagons we found in the road. The head of the column arrived at Bristoe Station about 10 o'clock, I should judge.

Q. At what point did you overtake the wagons, and how many of them do you suppose there were?

A. I do not recollect. There was a large park of wagons near Warrenton Junction—about half way between Catlett's Station and Warrenton Junction—which

left for Bristoe Station at daylight. We overtook those wagons. They were in park when I passed down to Warrenton Junction the previous evening; therefore I can not tell when we overtook the end of the train which I had passed near Catlett's station the evening before.

Q. What is the meaning of the term "in park?"

A. In camp.

Q. Had General Porter's command marched at 1 o'clock in the morning would he or would he not have passed those wagons in camp?

A. He would have passed them in camp, probably.

Q. Was or was not the march throughout at the usual rate at which troops move, or was it slower?

A. It was at the rate at which troops would move if there was no necessity for rapid movement.

TESTIMONY OF COL. FREDERIC MYERS, AUGUST 27.

Col. Frederic Myers, of the Quartermaster's Department, who is now dead, testifies (general court-martial record, page 106):

Lieut. Col. Frederic Myers was then called by the Government and sworn, and examined as follows:

By the JUDGE-ADVOCATE:

Q. Will you state to the court in what capacity you served in the Army of Virginia, under Major-General Pope, during his late campaign, in July and August last?

A. I was chief quartermaster to General McDowell.

Q. Where were you on the night of the 27th of August last?

A. I was with the trains of the army, about a mile and a half from where General Hooker had his battle on the 27th.

He was with the trains about a mile and a half from where General Hooker had the battle of the 27th. General Hooker's battle on the 27th was at Bristoe Station, where these troops were to be marched that night.

Q. Did you, or not, receive any instruction from General Pope on that day relating to your train along the road from Warrenton Junction to Bristoe Station? If so, state what they were.

A. I was ordered to move the trains in rear of General Hooker. Just before dark General Pope with his staff rode up, and I reported to him that General Hooker was in action ahead of me, and asked him if I should go into park with my trains. He replied that I could do so, or go on, as I thought best.

Q. What did you do; did you go into park, or did you continue on?

A. I went into park, and gave directions to all the quartermasters to go into park.

Q. At what hour on the following morning were those trains upon that road put in motion?

A. The head of the train commenced moving just at daylight.

Q. What was the condition of the road between Warrenton Junction and Bristoe Station at that time, so far as regards the passage of wagons, artillery, &c.?

A. It was in excellent condition at that time.

Q. Do you remember the character of that night—the night of the 27th of August? If so, will you please state it?

A. I was up nearly all that night. It was quite dark; there was no moon.

Q. Did the night change in its character toward the morning, or was it the same throughout?

A. It was a dark night. I could not state about it toward morning particularly.

Q. In view of the condition of the road as you have described it, and also the character of the night, was or was not the movement of troops along that road practicable that night?

A. I do not know of anything to hinder troops moving along the railroad there. There was a road running each side of the railroad. I should think it would have been easy for troops to move along there, although I may be mistaken in that.

FRANCIS S. EARL'S TESTIMONY AS ASSISTANT ADJUTANT-GENERAL, AUGUST 27-28.

Francis S. Earl, the assistant adjutant-general of General Morell, swears as follows (board record, pages 408-413):

Q. When did you, as acting assistant adjutant-general for Major-General Morell, on the 27th of August, first receive intimation that you were to move the next morning?

A. That was the day we moved to Warrenton Junction; I knew nothing of it until the next morning.

Q. About daybreak?

A. The order came to General Morell that we were to move in the morning; that was all I knew—that we were to move in the morning.

Q. When did you receive the first intimation that you were to move on the morning of the 28th?

A. I could not say whether it was the night before or whether it was during the night. I think it must have been before, because I knew we were to move at 3 o'clock in the morning.

Q. Were you up at 3 o'clock?

A. Yes; I was up at that time, and before, probably.

Q. You are quite positive you were?

A. Yes, sir.

Q. Have a distinct recollection of it?

Q. Yes; I recollect being up at that time.

Q. At what time did you arrive at Bristoe Station?

Q. I should judge somewhere about 10 o'clock, between 9 and 10.

Q. Do you know of any orders having been given the night before, or any effort made to clear that road from Warrenton Junction to Bristoe Station?

A. No, sir.

Q. From your position, would you have been likely to have known?

A. If I had really been acting as assistant adjutant-general of division, or feeling that I was in that position, I probably may have known of it.

Q. You considered you were acting in that capacity?

A. I considered myself more acting as an aid to General Morell, because I had not been announced as assistant adjutant-general.

Q. Who was acting as assistant adjutant-general?

A. Nobody but myself; he so considered me, though I had not been announced.

EVIDENCE OF GENERAL CHAUNCEY M'KEEVER, AUGUST 27-28.

General Chauncey McKeever, chief of staff of General Heintzelman, on page 151 of the board record, as it is called.

General McKeever says:

Q. If a peremptory order had been received at Warrenton Junction to move from that place to Bristoe at 1 a. m. on the night of the 27th and 28th of August, is it your opinion, as a military man, that the troops at Warrenton could have been put in motion on the road to Bristoe in order to comply with such a command?

A. They could have been put in motion, I presume. I know nothing to prevent their being put in motion.

Q. Do you recollect about what time it was daylight on the 28th of August?

A. I should think about 4 o'clock; may be a little later—not much.

COL. ROBERT E. CLARY TESTIFIES, AUGUST 27.

Col. Robert E. Clary, called by accused, swears that he received a note from Porter about 10 o'clock to run the railroad trains east beyond Cedar Run; and in answer to question says, page 119, G. C. M. (court-martial record, page 118):

Q. You speak of pushing forward the trains. Do you mean the trains upon the railroad, or ordinary wagon trains?

A. I mean railroad trains loaded with our own stores, and I think some sick and wounded.

Q. In your opinion, could or could not General Porter, after the receipt of his order to move, which receipt was at 9.30 p. m. of the 27th of August, have cleared the road entirely of wagons by 1 or 2 o'clock that night, so that his march would not have been much impeded?

A. I think the troops could have passed over during the night, had a sufficient force been sent in advance to have cleared the road of its obstructions, which, at the time I passed over it, extended only three miles, I think. When I passed over the road it was between 2 and 3 o'clock in the morning; what the obstructions had been previously to that time I am unable to say.

The examination by the judge-advocate here closed.

Examination by the Court:

Q. Will you state whether at 1 o'clock the character of the night and the state of the road were such as, in your judgment, to render practicable the march of General Porter's troops to Bristoe Station to arrive at or about daylight?

A. Not without the preliminary steps which I have previously stated ought to have been taken.

Q. Were or were not the first three or four miles of the road from Warrenton unobstructed?

A. They were, as I passed over it.

TESTIMONY OF SOLOMON THOMAS, AUGUST 27-28.

Solomon Thomas, of the Eighteenth Massachusetts Regiment, Martindale's brigade, being a part of Morell's division, swears, on page 841 of the board record, as follows:

Q. On the 27th of August where were you?

A. We were moving on the Warrenton road toward Bristoe Station. I should

think that we were encamped on that night some six to eight miles from Bristol Station. We went in before sundown; probably the sun was an hour or an hour and a half high when we halted there.

Q. When did you move from there?

A. I was corporal of the guard that night, and was ordered to wake the men at 1 o'clock, which I did; and we were formed and moved out from our camp immediately after 1 o'clock.

Q. At what time did you start on your march?

A. We then started immediately from that, and marched a mile probably, when we were halted.

Q. How long did you remain there before you proceeded on your journey?

A. I know at 9 o'clock we were still there. We had halted in the first place expecting to stop for a moment, and halted in position. Then we were ordered to rest at will, and did so, and then were ordered to lie down, and then we lay down.

Q. That was the morning of the 28th?

A. Yes, sir; and lay in that position, as we felt disposed, until, I should think—according to the best of my judgment it was 10 o'clock before we were called to company. Then we started and marched for Bristol Station.

Q. Do you recollect what the character of that night was, the 27th, and morning of the 28th of August?

A. I do. I recollect the roads were in good condition and that as we moved out there was no obstruction whatever in our way.

Q. You were wounded on the 30th?

A. On the 31st.

#### TESTIMONY OF GENERAL BUTTERFIELD, AUGUST 27.

Extract from General Butterfield's testimony (court-martial record, page 179):

General Porter called two aids, and sent them off to investigate the condition of the road, and to ask General Pope to have the road cleared so that we could come up.

#### PORTER ASKS POPE TO HAVE THE ROAD CLEARED.

Q. Did you see the order of the 27th from General Pope, or know anything about the urgency of its terms?

A. I did not read it.

Q. Did you learn of Capt. Drake De Kay that General Pope had taken measures to have the road cleared?

A. I did not.

Q. Can you state that, in point of fact, the road had not been cleared by General Pope's orders, or that at 1 o'clock at night and until later in the morning the road was all cleared; and can you state that the wagons that obstructed the road when you passed had not moved on to the road after daylight?

A. I cannot; I have no knowledge upon that subject.

#### STATEMENT OF CAPT. W. B. C. DURYEA, AUGUST 27.

Capt. W. B. C. Duryea, called by the Government, and sworn and examined, as follows (court-martial record, page 113):

By the JUDGE-ADVOCATE:

Q. What is your position in the military service?

A. I am assistant adjutant-general to General Duryea.

Q. Where were you and in what position on the 27th August last?

A. We were on the march from Warrenton, and on the night of the 27th of August we halted, I should think, some three or four miles this side of Warrenton.

Q. At what hour of the night did you halt?

A. About midnight.

Q. In your march up to that hour did you experience any unusual difficulties growing out of the character of the night?

A. No, sir.

#### EVIDENCE OF WILLIAM W. MACY, AUGUST 27.

In the board record, page 583, will be found the evidence of William W. Macy:

William W. Macy, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Q. Where do you reside?

A. Winchester, Ind.

Q. Were you in the military service of the United States in August, 1862; if so, in what capacity?

A. I was in the military service at that time; a sergeant, I believe.

Q. What regiment?

A. Nineteenth Indiana Volunteers, Gibbon's brigade, King's division.

- Q. When you finally left the service, what rank did you hold?  
 A. I held the rank of captain, A Company, Twentieth Indiana, our regiment having become consolidated.
- Q. Where were you on the 27th of August, 1862?  
 A. With Gibbon's brigade, on the march most of the day from Sulphur Springs toward the old Bull Run battle-ground.
- Q. How long did your brigade continue its march that day?  
 A. About 10 o'clock, I think, or half past 10 that night.
- Q. You then arrived at what place, as near as you can recollect?  
 A. I think it was called New Baltimore. We laid near a little town.
- Q. What was the character of that night—the night of the 27th and 28th of August?  
 A. Rather a dark night; starlight dark night.
- Q. Do you know what the character of that night was toward morning?  
 A. I am a little indistinct as to just the time. I was up at some time in the after part of the night.
- Q. Once, or more than once?  
 A. Once that I recollect very distinctly, and I think only once.
- Q. What was the character of the night then, so far as distinguishing objects?  
 A. I could see how to get a little way from the camp. I could see where the men laid as I went past the line where the soldiers were lying without running over them.
- Q. How far could you see?  
 A. I do not know that I could state how far I could see to distinguish things. I could see when I passed the wagon trains enough to stay away from the horses' heels. I could see that the wagon teams were hitched up.
- Q. In marching that night up to 10 o'clock, what difficulty, if any, did you experience on account of the character of the darkness of the night?  
 A. Most too dark to march pleasantly. We marched many nights as dark, though; some nights that were a good deal darker than it was that night we were on the march; but of course it is unpleasant marching after night.
- Q. Your regiment, in the march—how was it as to keeping its formation?  
 A. Could keep the ranks, as far as that was concerned.
- Q. What was the character of the roads, as to whether muddy or the reverse, on the night of the 27th of August?  
 A. They were not muddy unless we ran into a branch.

LIEUT. EDWARD BROOKS TESTIFIES, AUGUST 27.

Lieut. Edward Brooks called by the Government, and sworn and examined, as follows (general court-martial record, page 112):

By the JUDGE-ADVOCATE:

- Q. What is your position in the military service?  
 A. I am a first lieutenant of volunteers in the Sixth Wisconsin Regiment.
- Q. State to the court, if you please, whether or not you were serving with the Army of Virginia on or about the 27th of August last.  
 A. I was.
- Q. In what place occupied by that army were you on the night of the 27th of August?  
 A. I was at Bristoe Station and at Greenwich.
- Q. Do you remember the character of the night; if so, will you state whether it was of usual or unusual darkness?  
 A. It was not very dark—not so dark but what I could find my way through the woods.
- Q. Was or was not the night of such a character as to offer any unusual difficulties to the march of troops?  
 A. It was not.
- Q. What was the general condition of the road from Warrenton Junction in the direction of Manassas Junction?  
 A. It was very good.
- Q. Did you have full opportunities of ascertaining the condition of that road on the night of the 27th of August?  
 A. Yes, sir.
- Q. What opportunities did you have?  
 A. I traveled from beyond Warrenton to Warrenton Junction, from Warrenton Junction to Bristoe Station; and after arriving at Bristoe Station I went across the country to Greenwich.
- Q. Have you, or not, frequently passed over the road?  
 A. Very often.

TESTIMONY OF COL. THOMAS F. M'COY, AUGUST 27.

Board record, page 640:

Col. Thomas F. McCoy, called by the recorder, being duly sworn, was examined and testified as follows:



- Q. Whose brigade and whose division?  
 A. Duryea's brigade, Ricketts's division, McDowell's corps.  
 Q. What rank did you leave the service with?  
 A. Colonel.  
 Q. Were you brevet brigadier-general?  
 A. Yes, sir.  
 Q. Where were you on the afternoon of August 25, 1862?  
 A. A little southwest of Warrenton.  
 Q. How late did you march that day and evening?  
 A. The 25th?  
 Q. Yes.  
 A. I don't think we marched on the 25th. We marched on the 23d.  
 Q. Until how late?  
 A. About 10 or 11 o'clock.  
 Q. On the 27th of August were you on the march late in the day?  
 A. Yes.  
 Q. Until how late did you then march?  
 A. All night, until 1 o'clock.  
 Q. What difficulty, if any, was experienced in marching that night?  
 A. We didn't have any difficulty in marching that night. There was a good deal of straggling among the soldiers.

STATEMENT OF COLONEL BUCHANAN, AUGUST 27.

Colonel Buchanan, of the Third Indiana Cavalry, on page 603 of the board record, in reference to Porter's movement from Warrenton Junction to Bristoe, testifies as follows:

Q. What conversation had you with General Porter before he started off to Bristoe Station?

A. On the evening before he started somebody gave me an order to be in readiness to move at 3 o'clock in the morning. I was in front of General Porter's headquarters at 3 o'clock in the morning, but I saw no one until after the break of day. Then some one came to me and told me to let the men get their breakfasts and let their horses be fed. That was done, and I immediately went back to the place I occupied. Some time afterward, after sunrise, I saw General Porter. I wanted to go back to Fredericksburg to my regiment. I only had about ninety men with me, and I expected to go back the day before. I rode out with him in the woods, where he was in camp, until we got into an open field. He asked me to send a detachment of the command I had forward to clear the road toward Bristoe Station, two or three miles. This was done. I waited some little time, and the infantry began to move. About that time he handed me a letter, and directed me to give it to General Burnside, and told me I could go. I started toward Fredericksburg; he sent an aid after me and brought me back, and told me he was apprehensive that I might be captured. He told me to say to General Burnside—I can not get his language—but the idea was that there was no disaster that was very threatening as yet, and he hoped for the best.

EVIDENCE OF WILLIAM E. MURRAY, AUGUST 27-28.

Board record, page 586:

William E. Murray, called by the recorder, being duly sworn, testified as follows:

Direct examination:

- Q. Where do you reside?  
 A. Winchester, Ind.  
 Q. Were you in the military service of the United States in the month of August, 1862; if so, in what capacity?  
 A. Yes; I was a member of Company C, Nineteenth Indiana Volunteers.  
 Q. In whose brigade and division?  
 A. Gibbon's brigade, King's division.  
 Q. Where were you on the night of August 27, 1862?  
 A. The night of the 27th our regiment was encamped near New Baltimore; a little to the north, I think, of New Baltimore; that is, we stopped there about 10 o'clock, perhaps.  
 Q. How long had you been marching before you made that halt on that day of the 27th?  
 A. We had been marching, I think, most of the day; not continuously, but back and forth.  
 Q. From sunset, how much of that time had you been marching up to 10 o'clock?  
 A. I am unable to state the distance.  
 Q. Were you marching during that time?  
 A. We were moving most of the time.  
 Q. Did you keep to the road, or in the fields, or both?  
 A. Generally to the road, except where we would meet obstructions in the way of cavalry or artillery; kept mainly in the roads.

- Q. How was it after dark?  
 A. Much the same.  
 Q. Do you recollect the character of the roads at that time, as to whether they were dry or muddy?  
 A. I don't remember any mud; I think they were generally dry.  
 Q. Do you recall what the character of the night of the 27th of August was?  
 A. There was no moon, according to my recollection, but it was clear; we could see objects plain enough.  
 Q. At a great distance?  
 A. A rod or so.  
 Q. How much of that night were you up after coming to a halt at 10 o'clock?  
 A. I should think that I did not lie down till near midnight.  
 Q. Up to that time, do you recollect what the character of the night was, as far as distinguishing objects was concerned?  
 A. My recollection is that it was the usual starlight night.  
 Q. Up to that time, during that night, what difficulty, if any, did you experience in marching?  
 A. No particular difficulty.  
 Q. How was the regiment, so far as its formation was concerned, on that march after sunset.  
 A. I think they kept their formation about as well as usual.

WILLIAM M. CAMPBELL TESTIFIES, AUGUST 27.

Board record, page 591:

William M. Campbell, called by the recorder, was sworn and examined, as follows:

Direct examination:

- Q. State your residence.  
 A. I reside in Randolph County, Indiana.  
 Q. During the month of August, 1862, were you in the military service? If so, in what capacity?  
 A. I was in the military service, and in the Nineteenth Regiment of Indiana Volunteers, Gibbon's brigade, King's division.  
 Q. Where were you on the evening of August 27, 1862?  
 A. We were marching from the direction of Warrenton to Centreville, on a road that led in that direction, as far as I knew.  
 Q. On what is called the Warrenton, Gainesville and Centreville pike?  
 A. I think that was it; that is my recollection of it.  
 Q. How late did you march?  
 A. We marched until after night. I could not state how late it was, because I did not have any timepiece. It was after night when we stopped.  
 \* \* \* \* \*  
 Q. What was the character of the night?  
 A. It was an ordinary night, without moonlight; that is my recollection about it; nothing extraordinary in any way, only an ordinary night, such as we had a good many of in Virginia about those times.  
 Q. How far could you distinguish objects?  
 A. We marched our regiments in companies, and got along without any difficulty that I recollect of. How far we could see I could not say.

J. H. STINE EXAMINED, AUGUST 27.

Board record, page 597:

J. H. Stine, called by the recorder, being duly sworn, testifies as follows:

Direct examination:

- Q. Where do you reside?  
 A. I reside at Winchester, Randolph County, Indiana.  
 Q. During the month of August, 1862, were you in the military service of the United States? If so, in what regiment?  
 A. I was in Company C, Nineteenth Indiana Volunteers.  
 Q. Where were you on the afternoon, evening, and night of the 27th of August, 1862?  
 A. We started from Sulphur Springs near noon and marched north through Warrenton, going through there about 3 or 4 o'clock, and on north toward the Bull Run battle-ground.  
 Q. At what time did your regiment halt?  
 A. We marched quite a time after 9.  
 Q. Where was the rest of the brigade?  
 A. The whole brigade was together.  
 Q. Where was the rest of the division?  
 A. I took a great interest in the history of the movement of troops, and that day we were understood to be going into battle; I don't positively recollect whether the whole of the division went into camp or not; I know the next day we were not together all the time.

Q. In marching during that evening, what difficulty, if any, did you experience in getting along?

A. None, particularly.

Q. Did you keep to the road?

A. Mainly we did, though sometimes we didn't.

Q. Do you recollect what the character of the night was on the 27th of August, 1862.

A. My recollection is that from, say, 8 to 10 o'clock, it was may be toward from 8 to 11, it was not so light as afterward.

TESTIMONY OF WILLIAM BIRNEY, AUGUST 27.

Board record, page 683:

William Birney, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Q. Where do you reside?

A. Washington city.

Q. In the month of August, 1862, what rank did you hold in the service of the United States?

A. I was major of the Fourth New Jersey Regiment; I commanded the Fifty-seventh Pennsylvania.

Q. You finally left the service with what rank?

A. Brevet major-general.

Q. Early that month I believe you were taken prisoner?

A. No, sir; I was taken prisoner at Gaines' Mill.

Q. When did you assume command of the Fifty-seventh Pennsylvania?

A. Immediately after my exchange. If my memory serves me, I was exchanged on the 13th of August and took command about the 15th.

Q. In whose division were you then?

A. Commanding the Fifty-seventh; I was in Kearney's, Heintzelman's corps.

Q. Where were you on the night of August 27, 1862, and the morning of the 28th?

A. I was in camp, a little north of the Alexandria railroad.

Q. Did you march any that night; if so, when, and for what length of time?

A. We marched that night, but the exact our of starting I can not recollect. We marched some time before daybreak and in the direction of Bristoe Station.

Q. How many hours is it your recollection, about, that you marched?

A. I can not now say. I recollect marching some distance.

Q. What difficulty, if any, did you experience in marching that night, from the character of the night or the character of the roads?

A. I recollect no particular difficulty about the road.

Q. Were you then in command of the Fifty-seventh Pennsylvania?

A. I was.

Q. Did the entire brigade march with you?

A. Yes, sir.

Q. Do you recollect about what time you came to a halt?

A. I can not remember whether we halted before we got to Bristoe Station or not. We got to Bristoe Station at a very early hour.

EVIDENCE OF JOHN P. TAYLOR, AUGUST 27.

Board record, page 861:

John P. Taylor, called by the recorder, having affirmed, testified as follows:

Direct examination:

Q. Where do you live?

A. Reedsville, Pa.

Q. Were you in the military service of the United States in the month of August, 1862; if so, in what capacity?

A. I was captain of the First Pennsylvania Cavalry at that time.

Q. Have you ever been over the road from Warrenton Junction to Bristoe Station?

A. Yes; quite frequently.

Q. What was the character of that road from Warrenton Junction to Catlett's in 1862?

A. It is on the left side of the road from Warrenton Junction to Catlett's. There is a stream that passes between Warrenton Junction and Catlett's, I think at a distance not to exceed a mile.

Mr. BULLITT. Had the witness been over this road frequently before that?

A. Yes; I encamped at Catlett's in the spring of 1862 for some three weeks immediately after the enemy vacated Manassas. We were there three weeks before the advance moved to Fredericksburg.

Q. Go on and describe the character of the road as it then was from Warrenton Junction to Catlett's Station.

A. There is a stream passes down between Warrenton Junction and Catlett's and a railroad bridge crosses there, and some trestle-work, but above the bridge

it is almost level country for some miles west. At that time there was a strip of woods that came down near Catlett's—a narrow strip of woods. We had moved all over that ground for a mile west of the railroad.

Q. Then coming from Catlett's to Bristoe, what was the character of the road?

A. That is nearly a vast plain most of the way. There are two streams, I think—small ravines—but the country is a vast plain. General Gregg moved his division of cavalry a mile to the north of the railroad, in the night, from Bealeton to Auburn, about two or three miles north of Catlett's.

Q. Across the country?

A. Yes; across the country about a mile, where there was no road.

Q. At that time, could wagons go on each side of the road?

A. There were roads some distance there on each side of the railroad, and wagons and troops moved frequently in column.

Q. More than one road?

A. Oh, yes; the troops had made roads. Sometimes one road would get bad, and they would go off and make another road. The country was such they could have one almost any place.

By Mr. BULLITT:

Q. Were there any woods along the line of that road from Warrenton Junction to Bristoe Station?

A. There is a strip of woods that comes down at Catlett's or near Catlett's.

Q. Is that the only one?

A. There may have been others.

Q. I ask you, from your recollection, whether you know there were no others, or that there were others?

A. I don't recollect any woods, that is to any distance; I know there was on the right.

Q. Do you recollect whether there were any roads at that time that had been made by the army cutting through the woods and leaving stumps in the road?

A. No, sir.

Q. Do you recollect anything of that sort?

A. There were roads there in the spring of 1862 that the enemy had used during the winter of 1861-'62; fencing and everything was gone; it was an open country from Manassas to Warrenton Junction.

Q. Then it was an open country all the way from Manassas to Bristoe, was it?

A. Very nearly.

Board record, page 589:

STATEMENT OF SAMUEL G. HILL, AUGUST 27-28.

Samuel G. Hill, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Q. Where do you reside?

A. Arbor, Ind.

Q. Were you in the military service of the United States during the month of August, 1862?

A. Yes; I was a private in the Nineteenth Indiana, Company C.

Q. Gibbon's brigade, King's division?

A. Yes, sir.

Q. Where were you on the afternoon of August 27, 1862?

A. On the road from Warrenton to Gainesville.

Q. How late were you marching?

A. We were marching until 10 o'clock at night.

Q. Do you recollect what the character of the night was?

A. It was a clear night.

Q. How much of that night did you have an opportunity of noticing?

A. Until probably 3 o'clock of the morning of the 28th.

SOLOMON THOMAS TESTIFIES, AUGUST 27-28.

Board record, page 803:

Solomon Thomas, of Morell's division, Porter's corps, called by the recorder, being duly sworn, testified as follows:

Q. On the 27th of August where were you?

A. We were moving along the Warrenton road toward Bristoe Station. I should think that we were encamped on that night some six to eight miles from Bristoe Station. We went in before sundown; probably the sun was an hour or an hour and a half high when we halted there.

Q. When did you move from there?

A. I was corporal of the guard that night, and was ordered to wake the men at 1 o'clock, which I did, and we were formed and moved out from our camp immediately after 1 o'clock.

Q. At what time did you start on your march?

A. We then started immediately from that and marched a mile, probably, when we were halted.

- Q. How long did you remain there before you proceeded on your journey?  
 A. I know at 9 o'clock we were still there. We had halted in the first place expecting to stop for a moment, and halted in position. Then we were ordered to rest at will, and did so, and then were ordered to lie down, and then we lay down.  
 Q. That was the morning of the 28th?  
 A. Yes, sir; and lay in that position, as we felt disposed, until, I should think—according to the best of my judgment it was 10 o'clock before we were called to company. Then we started and marched for Bristol Station.  
 Q. Do you recollect what the character of that night was, the 27th, and morning of the 28th of August?  
 A. I do. I recollect the roads were in good condition; and that as we moved out there was no obstruction whatever in our way.  
 Q. You were wounded on the 30th?  
 A. On the 31st.

TESTIMONY OF E. D. ROATH, AUGUST 27.

E. D. Roath, called by the recorder, being duly sworn, testified as follows:

Direct examination:

- Q. Where do you reside?  
 A. Marietta, Lancaster County, Pennsylvania.  
 Q. Were you in the military service of the United States in August, 1862? If so, in what capacity?  
 A. I was in the military service of the United States in 1862, as captain of Company E, One hundred and seventh Regiment Pennsylvania Volunteers, Duryea's brigade, Ricketts's division.  
 Q. You finally left the service with what rank?  
 A. Captain, and was brevetted.  
 Q. On the night of August 27, 1862, where were you?  
 A. We were somewhere, I think, between Warrenton and a place called Waterloo; somewhere in the neighborhood of Warrenton.  
 Q. Did you make a night march that night?  
 A. We marched some; we were going from toward the Rappahannock across there.  
 Q. How late did you march?  
 A. I can not tell exactly what time we bivouacked. I know that we were all tired.  
 Q. Have you any recollection with reference to midnight as to what time you came into camp?  
 A. I could not tell, but I think it was somewhere near midnight; might have been 11 o'clock.  
 Q. Do you recollect whether you experienced any difficulty in marching?  
 A. No, sir; we did not.  
 Q. What was the character of the night as to darkness?  
 A. There was no moon; it was starlight; a little hazy toward morning, I think.

GENERAL JUBAL EARLY TESTIFIES, AUGUST 27.

General Jubal Early, confederate, testifies (board record, page 812) that he marched on the night of the 27th, between 10 and 12 o'clock, in the direction of Manassas, by way of Blackburn's Ford, and he experienced no difficulty whatever in marching.

Board record, pages 702, 705, 707, 708.

STATEMENT OF HENRY KYD DOUGLAS, AUGUST 27.

Henry Kyd Douglas, staff officer to General Jackson, testifies (on page 685, board record) that General Jackson's whole command moved away from Centreville on the night of the 27th, with all their trappings, up to the position, or near it, that they occupied on the day of the battle of the 29th.

I. H. DUVAL TESTIFIES, AUGUST 27.

Board record, page 820:

- I. H. Duval, called by the recorder, being duly sworn, testified as follows:  
 Q. Where do you reside?  
 A. Wellsborough, W. Va.  
 Q. Were you in the military service of the United States in the month of August, 1862; if so, in what capacity?  
 A. I was major of volunteers, First West Virginia Regiment.  
 Q. Whose brigade and division?  
 A. I was in the fourth brigade, Ricketts's division.  
 Q. Where were you on the evening of August 27, 1862, and what did you do?  
 A. On the evening of August 27 I was with my brigade. We were about four miles, I think, northwest of Warrenton at that time—north or northwest—and I

was directed by my colonel to carry a letter that he handed me from General Eicketta to General Pope.

Q. To what point?

A. It was supposed to be somewhere near Centreville. That was my order.

Q. What did you then do?

A. I started and made the trip and delivered the letter.

Q. You left the camp about what time?

A. Nearly dark; it was after sundown.

Q. What road did you take?

A. I came back to Warrenton, and I followed then the road running from Warrenton in the direction of Catlett Station. I was directed to go that way and keep out of the way of the enemy.

Q. Did you pass through Warrenton Junction?

A. No, sir; I struck the road at Catlett's.

Q. What direction did you then take?

A. I took the road leading from Catlett Station to Manassas Junction, by the way of Bristoe.

Q. Where did you find General Pope?

A. I found General Pope near Manassas Junction.

Q. What was the character of that night?

A. I don't know that I recollect distinctly in regard to that. I rode all night, though, until about 3 o'clock in the morning, when I took a little rest. I had no particular difficulty in finding the way.

Q. From Catlett Station to Bristoe did you meet with any obstruction to your movements?

A. There were a great many wagons along the line; there were some troops; but I went along without any particular obstruction. There were no obstacles that kept me from going.

Q. Did you have any escort with you?

A. No, sir.

#### TESTIMONY OF MAJOR DUVALL, AUGUST 27.

Major Duvall also testifies that he traveled eighteen or twenty miles that night.

Board record, page 832, paragraph 875:

#### JAMES HADDOW TESTIFIES, AUGUST 27.

James Haddow, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Q. Where do you reside?

A. Barlow, Ohio.

Q. Were you in the military service of the United States on the 27th of August, 1862; if so, in what capacity?

A. I was in the military service as orderly sergeant of Company F, Thirty-sixth Ohio Infantry.

Q. When you finally left the service what rank did you hold?

A. Captain. I was transferred to Company E.

Q. Where were you at sunset on the 27th of August, 1862—about that time?

A. We were on the road between Catlett Station and Bristoe.

Q. Did you after that go toward Catlett Station; if so, at what time and under what circumstances?

A. We marched that night to Bristoe, arriving at Bristoe Station after dark some time; we remained there that night; on the following morning the regiment went on in the direction of Manassas; the company of which I was a member was detached and put in charge of a major of the medical department to go back in the direction of Warrenton with ambulances and obtain medical supplies; we returned to somewhere near Warrenton, passing Catlett Station at some distance on the morning of the 28th; we returned to Bristoe on the evening of the 28th.

Q. At what time did you set out from Bristoe Station to go in the direction of Catlett Station?

A. I could not give the hour, but pretty early in the morning—as soon as we got up and got breakfast.

Q. Did you during that day see General Porter's corps?

A. We met troops (it was a frequent habit to ask soldiers what troops they were), and they said they were General Porter's troops. Porter's troops lay at Warrenton Junction on the afternoon of the 27th, when we left there.

Q. What difficulty, if any, did you experience on the morning of the 28th in taking this ambulance train from Bristoe Station to Catlett Station?

A. I don't think we had any material difficulty in getting through; we must have had at least three ambulances; we passed through trains and passed troops; we must undoubtedly have made a march that day of sixteen miles; we could not have met with serious obstructions.

Q. Do you know what troops you met?

A. They said they were General Porter's; we inquired frequently; of course

I was not acquainted with General Porter's corps; we had just reached the East from the West, and all troops were strange to me.

Q. On the morning of the 29th where were you?

A. After taking supper on the evening of the 28th, at Bristoe Station, some time after dark, we commenced marching again and marched to Manassas Junction, reaching there some time during the night; I don't know what hour; so early in the night that we lay down and slept, however, and on the morning of the 29th we were at Manassas Junction.

Board record, page 834, paragraph 878:

STATEMENT OF LIEUT. A. F. TIFFANY.

Lieut. A. F. Tiffany, called by the recorder, being duly sworn, testified as follows:

Q. What difficulty, if any, did you experience in getting along in your march from Bristoe toward Warrenton?

A. Nothing more than that which is common where there is a good many trains passing; sometimes the road would be full; sometimes we would pass around, then we would be on the road again; nothing so very unusual in the way of traveling.

EVIDENCE IN REFERENCE TO THE ORDERS OF THE 29TH AUGUST, 1862—REPORTS OF UNION OFFICERS.

In giving the following reports of Union officers I have been compelled in many cases to use extracts, for the reason that in cutting from the reports I could not take the pages, it being printed on both sides. The same is also the case with the confederate reports. But all material points are included, and these extracts apply solely to the 29th of August, 1862:

Report of Brig. Gen. John F. Reynolds, division attached to McDowell's corps.

HEADQUARTERS REYNOLDS'S DIVISION,  
*Camp near Munson's Hill, Virginia, September 5, 1862.*

General McDowell joined the command at daylight, and directed my co-operation with General Sigel.

The right of the enemy's position could be discerned upon the heights above Groveton, on the right of the pike. The division advanced over the ground to the heights above Groveton, crossed the pike, and Cooper's battery came gallantly into action on the same ridge on which the enemy's right was, supported by Meade's brigade. While pressing forward our extreme left across the pike, re-enforcements were sent for by General Sigel for the right of his line under General Milroy, now hardly pressed by the enemy, and a brigade was taken from Schenck's command on my right. The whole fire of the enemy was now concentrated on the extreme right of my division, and, unsupported there, the battery was obliged to retire with considerable loss, in both men and horses, and the division fell back to connect with Schenck.

Later in the day General Pope, arriving on the right from Centreville, renewed the attack on the enemy and drove him some distance. My division was directed to threaten the enemy's right and rear, which it proceeded to do under a heavy fire of artillery from the ridge to the left of the pike. Generals Seymour and Jackson led their brigades in advance; but, notwithstanding all the steadiness and courage shown by the men, they were compelled to fall back before the heavy fire of artillery and musketry which met them both on the front and left flank, and the division resumed its original position. King's division engaged the enemy along the pike on our right, and the action was continued with it until dark by Meade's brigade.

Report of Brig. Gen. John C. Robinson, of Kearney's division, Heintzelman's corps.

HEADQUARTERS ROBINSON'S BRIGADE,  
*Centreville, Va., August 31, 1862.*

On Friday morning I was ordered to "support Colonel Poe's brigade and to develop his line of battle to the right." After crossing Bull Run I moved forward in two lines, the first composed of the Sixty-third Pennsylvania and five companies of the Thirtieth Ohio, which were temporarily attached to my command. Arriving on the ground assigned me, I remained for a considerable time exposed to a heavy artillery fire, after which I took up my position on high ground farther to the right. I was soon after directed by Major-General Kearney, commanding division, to move to the support of Poe's left, when I formed the Sixty-third and One hundred and fifth Pennsylvania in line of battle on the

Leesburg road, holding the Twentieth Indiana and Ohio battalion in reserve. At this time there was a heavy musketry fire to our left and front, and I was directed to move forward through the woods to turn the enemy and cut off his retreat through the railroad cut.

On arriving on the ground with the Sixty-third and One hundred and fifth Pennsylvania, Twentieth Indiana, and Third Michigan, I found the railroad already occupied by our own troops and the cornfield in front filled with the enemy. I then deployed the Sixty-third and One hundred and fifth Pennsylvania along the railroad to the right of the troops in position, directing the Third Michigan to protect my right flank, placing the Twentieth Indiana in reserve, and throwing skirmishers to the front. Soon after taking this position the regiments on my left gave way and passed rapidly to the rear out of the woods, leaving my left flank entirely exposed.

As rapidly as possible I moved my command to the left to occupy the deserted ground, but before my troops could get fairly into position I was fiercely attacked by a superior force that had succeeded in crossing the road. I then threw forward my right wing, forming my line of battle at right angles to the original position, and checked the progress of the enemy. At this time General Birney brought up and turned over to me his Fourth Maine. He afterward sent me his First, Fourth, and One hundred and first New York Regiments. These troops were deployed to the right and left of the railroad, and pushed forward to the support of my regiments in front, which were suffering severely from a terrific fire of musketry and the enemy's artillery posted on a hill to our right and rear. Our men now gained steadily on the enemy, and were driving him before them until he brought up fresh masses of troops (supposed to be two brigades), when, with ammunition nearly expended, we withdrew to our second position.

Report of Brig. Gen. C. Grover, of Heintzelman's corps.

HEADQUARTERS FIRST BRIGADE, HOOKER'S DIVISION,  
September 26, 1862.

On the following day we continued our march for the plains of Manassas by the way of Centreville, and arrived upon the battlefield about 9 a. m. The battle had already commenced, and as my column moved to the front the shells fell with remarkable precision along the line of the road, but fortunately did no damage.

My brigade was temporarily placed under the orders of Major-General Sigel, whose troops were then engaging the enemy in the center. Under instructions received from him, I threw forward the First Massachusetts Volunteers to support his line, while my remaining four regiments were drawn up in two lines, sheltered from the enemy's fire by a roll of the field in front. This position was occupied until about 2.30 p. m.

In the mean time I rode over the field in front as far as the position of the enemy would admit. After rising the hill under which my command lay an open field was entered, and from one edge of it gradually fell off in a slope to a valley, through which ran a railroad embankment. Beyond this embankment the forest continued, and the corresponding heights beyond were held by the enemy in force, supported by artillery.

At 3 p. m. I received an order to advance in line of battle over this ground, pass the embankment, enter the edge of the woods beyond, and hold it. Dispositions for carrying out such orders were immediately made; pieces were loaded, bayonets fixed, and instructions given for the line to move slowly upon the enemy until it felt its fire, then close upon him rapidly, fire one well-directed volley, and rely upon the bayonet to secure the position on the other side.

We rapidly and firmly pressed upon the embankment, and here occurred a short, sharp, and obstinate hand-to-hand conflict with bayonets and clubbed muskets.

Report of General P. Kearney (by General Birney), of Heintzelman's corps.

CENTREVILLE, VA., August 31, 1862.

On the 29th, on my arrival, I was assigned to the holding of the right wing, my left on Leesburg road. I posted Colonel Poe, with Berry's brigade, in first line; General Robinson, First Brigade, on his right, partly in line and partly in support; and kept Birney's most disciplined regiments reserved and ready for emergencies.

Toward noon I was obliged to occupy a quarter of a mile additional on left of said road, from Schurz's troops being taken elsewhere.

During the first hours of combat General Birney, on tired regiments in the center falling back, of his own accord rapidly pushed across to give them a hand to raise themselves to a renewed fight.

In early afternoon General Pope's order to General Roberts was to send a pretty strong force diagonally to the front to relieve the center in woods from pressure. Accordingly I detached on that purpose General Robinson, with his brigade, the Sixty-third Pennsylvania Volunteers, Colonel Hays, the One hundred and fifth



Pennsylvania Volunteers, Captain Craig, the Twentieth Indiana, Colonel Brown, and, additionally, the Third Michigan Marksmen, under Colonel Champlin. General Robinson drove forward for several hundred yards, but the center of the main battle being shortly after driven back and out of the woods, my detachment thus exposed so considerably in front of all others, both flanks in air.

That I might drive the enemy, by an unexpected attack, through the woods, I brought up additionally the most of Birney's regiments, the Fourth Maine, Colonel Walker and Lieutenant-Colonel Carver, the Fortieth New York; Colonel Egan, First New York, Major Burt, and One hundred and first New York, Lieutenant-Colonel Gesner, and changed front to the left, to sweep with a rush the first line of the enemy. This was most successful. The enemy rolled up on his own right. It presaged a victory for us all; still our force was too light. The enemy brought up rapidly heavy reserves, so that our further progress was impeded. General Stevens came up gallantly in action to support us, but did not have the numbers.

Report of Maj. Gen. Franz Sigel.

NEAR FORT DE KALE, VIRGINIA, September 16, 1862.

II.—*Battle of Groveton, near Bull Run, on Friday, August 29, 1862.*

On Thursday night, August 28, when the First Corps was encamped on the heights south of Young's Branch, near Bull Run, I received orders from General Pope to "attack the enemy vigorously" the next morning. I accordingly made the necessary preparations at night and formed in order of battle at daybreak, having ascertained that the enemy was in considerable force beyond Young's Branch, in sight of the hills we occupied. His left wing rested on Catharpin Creek, front toward Centreville; with his center he occupied a long stretch of woods parallel with the Sudley Springs (New Market) road, and his right was posted on the hills on both sides of the Centreville-Gainesville road. I therefore directed General Schurz to deploy his division on the right of the Gainesville road, and, by a change of direction to the left, to come into position parallel with the Sudley Springs road. General Milroy, with his brigade and one battery, was directed to form the center, and to take possession of an elevation in front of the so-called "stone house," at the junction of the Gainesville and Sudley Springs roads. General Schenck, with his division, forming our left, was ordered to advance quickly to an adjoining range of hills, and to plant his batteries on these hills at an excellent range from the enemy's position.

In this order our whole line advanced from point to point, taking advantage of the ground before us, until our whole line was involved in a most vehement artillery and infantry contest. In the course of about four hours, from half past 6 to half past 10 o'clock in the morning, our whole infantry force and nearly all our batteries were engaged with the enemy, Generals Milroy and Schurz advancing one mile and General Schenck two miles from their original positions. At this time (10.30 o'clock) the enemy threw forward large masses of infantry against our right, but was resisted firmly and driven back three times by the troops of Generals Milroy and Schurz. To assist those troops so hard pressed by overpowering numbers, exhausted by fatigue, and weakened by losses I ordered one battery of reserve to take position on their left, and posted two pieces of artillery, under Lieutenant Blum, of Schirmer's battery, supported by the Forty-first New York Volunteer Infantry, beyond their line and opposite the right flank of the enemy, who was advancing in the woods.

At 2 o'clock in the afternoon General Hooker's troops arrived on the field of battle and were immediately ordered forward by their noble commander to participate in the battle. One brigade, under Colonel Carr, received orders, by my request, to relieve the regiments of General Schurz's division, which had maintained their ground against repeated attacks, but were now worn out and nearly without ammunition. Other regiments were sent forward to relieve Brigadier-General Milroy, whose brigade had valiantly disputed the ground against greatly superior numbers for eight hours.

To check the enemy if he should attempt to advance, or for the purpose of preparing and supporting an attack from our side, I placed four batteries, of different commands, on a range of hills on our center and behind the woods, which had been the most hotly contested part of the battlefield during the day. I had previously received a letter from Major-General Pope, saying that Fife-John Porter's corps and Brigadier-General King's division, numbering twenty thousand men, would come in on our left. I did, therefore, not think it prudent to give the enemy time to make new arrangements, and ordered all the batteries to continue their fire, and to direct it principally against the enemy's position in the woods before our front. Some of our troops placed in front were retiring from the woods, but as the enemy, held in check by the artillery in the center, did not venture to follow, and as at this moment new regiments of General Hooker's command arrived and were ordered forward, we maintained our position which Generals Milroy and Schurz had occupied in the morning.

During two hours, from 4 to 6 o'clock p. m., strong cannonading and musketry

continued on our center and right, where General Kearney made a successful effort against the extreme left of the enemy's lines.

Report of Brig. Gen. R. H. Milroy.

HEADQUARTERS INDEPENDENT BRIGADE,  
NEAR FORT ETHAN ALLEN, VA.,  
September 12, 1862.

On the following morning (the 29th) at daylight I was ordered to proceed in search of the rebels, and had not proceeded more than five hundred yards when we were greeted by a few straggling shots from the woods in front. We were now at the creek, and I had just sent forward my skirmishers, when I received orders to halt and let my men have breakfast. While they were cooking, myself, accompanied by General Schenck, rode up to the top of an eminence some five hundred yards to the front to reconnoiter. We had no sooner reached the top than we were greeted by a shower of musket-balls from the woods on our right. I immediately ordered up my battery and gave the bushwhackers a few shot and shell, which soon cleared the woods. Soon after I discovered the enemy in great force about three-quarters of a mile in front of us, upon our right of the pike leading from Gainesville to Alexandria. I brought up my two batteries and opened upon them, causing them to fall back. I then moved forward my brigade, with skirmishers deployed, and continued to advance my regiments, the enemy falling back.

General Schenck's division was off to my left, and that of General Schurz to my right. After passing a piece of woods I turned to the right, where the rebels had a battery that gave us a good deal of trouble. I brought forward one of my batteries to reply to it, and soon after heard a tremendous fire of small-arms, and knew that General Schurz was hotly engaged to my right in an extensive forest. I sent two of my regiments, the Eighty-second Ohio, Colonel Cantwell, and the Fifth Virginia, Colonel Ziegler, to General Schurz's assistance. They were to attack the enemy's right flank, and I held my other two regiments in reserve for a time. The two regiments sent to Schurz were soon hotly engaged, the enemy being behind a railroad embankment, which afforded them an excellent breast-work.

Report of Brigadier-General Stahl.

CENTREVILLE, September 1, 1862.

With break of day on the 29th I followed the second brigade, first division, marching to Dogan's farm, and took position behind the farm. I remained here but a short time. Here I found a number of dead and wounded. Having remained here a half an hour, a heavy skirmish occurred at this point.

Report of Lieut. George B. Haskins, First Ohio Artillery, McLean's brigade, Schenck's division, Sigel's corps.

HEADQUARTERS BATTERY K,  
Buffalo Fort, Va., September 17, 1862.

Fighting resumed next morning, August 29, and engaged the enemy until about 11 a. m., when we ran out of ammunition, and, not being able to get more, were ordered to the rear, where we remained that and the following day, August 30, until about 5 p. m.

Report of Colonel Krzyzanowski, commanding second brigade, Schurz's division, Sigel's corps.

NEAR ARLINGTON HEIGHTS, September 3, 1862.

At about half past 5 o'clock a. m. on the 29th of August I received orders from General Schurz to advance with my brigade. It was done in the following order: Two regiments in company column, left in front, and one regiment, the Fifty-fourth New York Volunteers, as reserve. On the right of me was Colonel Schimelpfennig with his brigade, and on the left General Milroy's brigade. A line of skirmishers having been established, we advanced toward the woods through which the Manassas Gap Railroad runs. As soon as we entered the woods I dispatched my adjutant to ascertain whether the line of skirmishers was kept up on both wings, and finding such was not the case and that I had advanced a little faster than General Milroy's and Colonel Schimelpfennig's column, I halted my skirmishers to wait until the line was re-established. However, being informed that General Milroy was advancing, I sent the Fifty-fourth Regiment to take position on my right wing and try to find the lines of Colonel Schimelpfennig's skirmishers, and then I advanced together with the former.

Scarcely had the skirmishers passed over two hundred yards when they became engaged with the enemy. For some time the firing was kept up; but our

skirmishers had to yield at last to the enemy's advancing column. At this time I ordered my regiments up, and a general engagement ensued. However, I soon noticed that the Fifty-fourth and Fifty-eighth Regiments had to fall back, owing to the furious fire of the enemy, who had evidently thrown his forces exclusively upon those two regiments. The Seventy-fifth Regiment Pennsylvania Volunteers, which up to this time had not taken part in this engagement, was (at the time the Fifty-eighth and Fifty-fourth retired) now nobly led on by Lieutenant-Colonel Mahler upon the right flank of the enemy, and kept him busy until I had brought the Fifty-eighth at a double-quick up to its previous position, when those two regiments successfully drove the enemy before them, thereby gaining the position of the Manassas Gap Railroad.

The Fifty-fourth had meanwhile been ordered by General Schurz to take position with the Twenty-ninth Regiment New York State Volunteers in the interval of my brigade and that of Colonel Schimelpfennig.

At this time I observed on my right the brigade of General Roberts, to whom I explained my position, after which we advanced together a short distance; but he soon withdrew his forces, ascertaining that he got his brigade in between the columns of our division. We had occupied the above-named position only a short time when the enemy again tried to force us back, but the noble conduct of my troops did not allow him to carry out his design, and he did not gain one inch of ground. We were thus enabled to secure our wounded and some of our dead, and also some of the enemy's wounded, belonging to the Tenth South Carolina Regiment. We held this position until 2 p. m., when we were relieved by a brigade of General Kearney's division, and retired about one-fourth of a mile toward our rear, where we also encamped for the night.

Report of Col. Joseph B. Carr, commanding brigade of Brig. Gen. Joseph Hooker's division, Heintzelman's corps.

**HEADQUARTERS THIRD BRIGADE, HOOKER'S DIVISION,  
CAMP NEAR FORT LYON, VA., September 6, 1862.**

At 2 o'clock Friday morning, August 29, I received orders to march at 3 a. m. and support General Kearney, who was in pursuit of the enemy. A march of ten miles brought us to the Bull Run battlefield. About 11 a. m. was ordered in position to support a battery in front of the woods, where the enemy with General Sigel's troops was engaged. Remaining about one hour in that position, was ordered to send into the woods and relieve two regiments of General Sigel's corps. I sent in the Sixth and Seventh New Jersey Volunteers. Afterward received orders to take the balance of the brigade in the woods, which I did at about 2 p. m. Here I at once engaged the enemy, and fought him for a space of two hours, holding my position until our ammunition was all expended. About 4 o'clock we were relieved by General Reno and Colonel Taylor, but did not reach the skirt of the woods before a retreat was made and the woods occupied by the enemy. When I arrived out of the woods I was ordered to march about half a mile to the rear and bivouac for the night.

Report of Col. J. W. Revere, Seventh New Jersey Volunteers, Carr's brigade, Hooker's division, Heintzelman's corps.

**IN THE FIELD, NEAR CENTREVILLE, VA., August 30, 1862.**

SIR: I have the honor to report that this regiment, being ordered into the woods with the Sixth New Jersey Volunteers, proceeding [proceeded] to occupy them, relieving a New York regiment of General Steinwehr's division on the 29th instant at 11 a. m. on the extreme right of the position of our part of the army.

Advancing about fifty yards, we encountered the enemy's pickets, and a spirited engagement ensued, with varying success; and having been relieved by the timely advance of the Sixth Regiment New Jersey Volunteers, we drove the enemy from his position, but having been strongly re-enforced, he regained it about 1 p. m.

Report of Maj. F. Blessing, commanding Seventy-fourth Pennsylvania Volunteers, of first brigade, Schurz's division, Sigel's corps.

At 5 o'clock a. m., August 29, we left this place, meeting our brigade, commanded by Col. A. Schimelpfennig, at 6 o'clock. After a rest of about fifteen minutes the regiment was ordered to take its position on the extreme right of the army corps then advancing. Under cover of skirmishers in the front and right flank, we advanced in quick time over an open field until we arrived at the center of the woods, where in an opening we halted. The skirmishers met the skirmish line of the enemy, opened fire, and drove them into the woods. Forced by the heavy artillery fire of the enemy, we changed several times our positions. From the right flank came the report that a strong column was advancing, but that it was impossible to recognize whether friend or foe. It was afterward ascertained to be General Kearney's corps for our relief. The regiment was then

ordered to the left, where it took its position in the general battle-line, after advancing about four hundred yards under the heavy fire of the enemy, driving the latter back and out of his positions, but by the withdrawing of a regiment stationed on the left of the Seventy-fourth, the enemy took advantage, and, outflanking us, we were forced back about one hundred yards.

Forming again in column for attack, the regiment advanced in quick time toward the enemy, who gave way until he arrived at the other side of the railroad dam. Here, again flanked by the enemy and under a galling fire of grape-shot and canister, the regiment had to leave its position, which it did by making a flank movement to the left, forcing the enemy to withdraw from the woods. We advanced over our former position, capturing an ambulance with two wounded officers, to the seam of the woods. At this point a heavy shower of grape-shot and canister pouring into us, we withdrew to the railroad dam. After resting here for about thirty minutes, we were ordered by General Schurz to support a battery on the extreme right, keeping in that position till the battery left. We then again joined our brigade. Worn and exhausted we camped for the night on the same ground the enemy held the night previous.

Report of Maj. Steven Kovacs, Fifty-fourth New York Volunteers, Second Brigade, Schurz's division, Sigel's corps.

CAMP NEAR ARLINGTON HEIGHTS, September 12, 1862.

SIR: I have the honor to report that on the 29th of August, 1862, the Fifty-fourth Regiment New York State Volunteers was drawn up in line of battle at 6 o'clock a. m., at Manassas, and ordered for reserve by General Schurz; at 8 o'clock, by his orders, was sent to the woods to drive out the enemy, and found them in large force. The regiment instantly became engaged, and it held the woods in spite of the superior numbers until 1 o'clock, when it was relieved by another regiment. In this engagement the officers and men behaved themselves bravely, especially the second color-bearer, William Rauschmüller, who, seeing his comrade (the first color-bearer) fall, instantly seized the flag, and at the same time he cared for his wounded comrade, took him to the rear, and immediately returned again to his proper place. After this the regiment was ordered to fall back to another wood about half a mile distant, with the order to be in column by division, to be ready for any emergency, and the regiment remained under arms all night.

Report of Capt. F. Braum, commanding Fifty-eighth New York Volunteers, Second Brigade, Schurz's division, Sigel's corps.

CAMP NEAR ARLINGTON HEIGHTS, September 12, 1862.

The 29th instant the regiment was ordered into action, and marching over a plain ground soon was engaged with the enemy, which had taken position in the woods. The regiment held the enemy in check from 8 o'clock in the morning till 12 o'clock p. m., when the regiment was relieved. The loss of the regiment was twenty-nine killed, wounded, and missing.

Report of Col. William Blaisdell, Eleventh Massachusetts Volunteers, Grover's Brigade, Hooker's division, Heintzelman's corps.

CAMP NEAR ALEXANDRIA, VA., September 14, 1862.

After supporting several batteries the regiment was ordered to move forward and engage the enemy. At about 3 p. m., advancing about one mile to the edge of a heavy wood, then deploying and moving forward in line of battle until within range of the enemy's pickets, the line was halted, bayonets fixed. Again moving forward, driving the enemy's pickets before it, the regiment came upon and engaged a heavy line of the enemy's infantry, which was driven back and over a line of railroad, where the road-bed was ten feet high, behind which was posted another heavy line of infantry, which opened a terrific fire upon the regiment as it emerged from the woods. The Eleventh Regiment being the battalion of direction, was the first to reach the railroad, and of course received the heaviest of the fire. This staggered the men a little, but recovering in an instant, they gave a wild hurrah and over they went, mounting the embankment, driving everything before them at the point of the bayonet.

Here, for two or more minutes, the struggle was very severe, the combatants exchanging shots, their muskets almost muzzle to muzzle, and engaging hand to hand in deadly encounter. Private John Sawler, of Company D, stove in the skull of one rebel with the butt of his musket and killed another with his bayonet. The enemy broke in confusion and ran, numbers throwing down their muskets, some fully cocked, and the owners too much frightened to fire them, the regiment pursuing them some eighty yards into the woods, where it was met by an overwhelming force in front, at the same time receiving an artillery fire, which enfiladed our left and forced it to retire, leaving the dead and many of the wounded where they fell.

It was near the railroad embankment that the brave Tileston, Stone, and Porter, and other gallant men, received their mortal wounds. Being thus overpowered by numerical odds, after breaking through and scattering two lines of the enemy, and compelled to evacuate the woods and enter into the open fields beyond, the enemy pursuing us hotly to the edge of the woods, I was greatly amazed to find that the regiment had been sent to engage a force of more than five times its numbers, strongly posted in thick woods and behind heavy embankments, and not a soldier to support it in case of disaster. After collecting the regiment together and moving back to our original position we encamped for the night. The officers and men of the regiment fought with the most desperate bravery; not a man flinched, and the losses were proportionately severe. Out of two hundred and eighty-three officers and men who participated in the fight, three officers and seven enlisted men were killed, three officers and seventy-four enlisted men were wounded, and twenty-five missing, making an aggregate of ten killed, seventy-seven wounded, and twenty-five missing, all in the space of fifteen or twenty minutes. The regiment bivouacked on the field.

General R. C. Schenck's report, by Colonel Cheesborough.

WASHINGTON, D. C., September 17, 1862.

On Thursday, 29th ultimo, we left Buckland's Mills, passing through Gainesville, and proceeded on the Manassas Junction pike to within some four miles of that place, and then turned eastwardly, marching toward Bull Run. The scouts in advance reported a force of the enemy, consisting of infantry and cavalry in front. We were hurried forward and formed line of battle with our right toward Centreville. Some few shells were thrown into a clump of woods in front where the enemy were last seen, but without eliciting any response. Some two hours elapsed when heavy firing was heard on our left, which we concluded was from McDowell's corps, and the enemy who had worked around from our front in that direction. We were immediately put in motion, and marched on the Warrenton road and took position for the night on a hill east of the "stone house," our right resting on the pike.

On Friday morning early the engagement was commenced by General Milroy on our right, in which we soon after took part, and a rapid artillery fire ensued from both sides. For some time heavy columns of the enemy could be seen filing out of a wood in front and gradually falling back. They were within range of our guns, which were turned on them and must have done some execution. An hour after we received the order to move one brigade by the flank to the left and advance, which was done. We here obtained a good position for artillery, and stationed De Beck's First Ohio Battery, which did excellent service, dismounting one of the enemy's guns, blowing up a caisson and silencing the battery. Unfortunately, however, they were poorly supplied with ammunition, and soon compelled to withdraw.

Our two brigades were now put in motion. General Stahel, commanding first brigade, marching around the right of the hill to a hollow in front, was ordered to draw up in line of battle and halt. Colonel McLean advanced around the left of the hill under cover of the woods, pressing gradually forward until he struck the turnpike at a white house about one-half mile in advance of the stone house. General Milroy's brigade arrived about the same time. We were halted, and sent back for General Stahel, who took the pike and soon joined us. We then formed our line of battle in the woods to the left of the pike, our right resting on the road, and then pushed on slowly. Milroy, in the mean while, had deployed to the right of the road, and soon became engaged with the enemy. Our division was advanced until we reached the edge of the woods and halted.

In front of us was an open space (which also extended to the right of the road and to our right), beyond which was another wood. We remained here nearly an hour, the firing in the mean while becoming heavy on the right. The enemy had a battery very advantageously placed on a high ridge behind the woods in front of Milroy, on the right of the road. It was admirably served and entirely concealed. Our position becoming known their fire was directed toward us. The General determined, therefore, to advance, and so pushed on across the open space in front and took position in the woods beyond. We here discovered that we were on the battle-ground of the night before, and found the hospital of Gibbon's brigade, who had engaged the enemy. The battery of the enemy still continued. We had no artillery. De Beck's and Schirmer's ammunition having given out, and Buell's battery which had reported, after a hot contest with the enemy (who had every advantage in position and range), was compelled to retire. It was now determined to flank the battery and capture it, and for this purpose General Schenck ordered one of his aids to reconnoiter the position. Before he returned, however, we were requested by General Milroy to assist him, as he was very heavily pressed. General Stahel was immediately ordered to proceed with his brigade to Milroy's support.

It was about this time, 1 or 2 o'clock, that a line of skirmishers were observed approaching us from the rear; they proved to be of General Reynolds. We communicated with General Reynolds at once, who took his position on our left, and

at General Schenck's suggestion he sent a battery to our right in the woods for the purpose of flanking the enemy. They secured a position and were engaged with him about an hour, but with what result we were not informed. General Reynolds now sent us word that he had discovered the enemy bearing down upon his left in heavy columns, and that he intended to fall back to the first woods behind the cleared space, and had already put his troops in motion. We therefore accommodated ourselves to his movement. It was about this time that your order came to press toward the right. We returned answer that the enemy were in force in front of us, and that we could not do so without leaving the left much exposed. General Schenck again asked for some artillery.

General Stabel's brigade that had been sent to General Milroy's assistance having accomplished its object under a severe fire had returned, and soon after General Stevens reported with two regiments of infantry and a battery of four 20-pound Parrot guns. With these re-enforcements we determined to advance again and reoccupy the woods in front of the cleared space, and communicated this intention to General Reynolds. He, however, had fallen back on our left some distance to the rear; he was therefore requested to make his connection with our left. The Parrots in the mean while were placed in position, and under the admirable management of Lieutenant Benjamin did splendidly. Two mountain howitzers also reported, and were placed on our right in the edge of the woods near the road and commenced shelling the woods in front of the open space, which were now occupied by the enemy, our skirmishers having previously fallen back.

The artillery fire now became very severe, and General Schenck was convinced that it was very essential that he should have another battery, and so sent me to you to get one. I arrived to find one, Captain Romer's, just starting. You also directed me to order General Schenck to fall gradually back, as he was too far forward. General Stabel on the left of the pike and Colonel McLean to the left of Stabel. I here state in my report that General Schenck, on receiving these re-enforcements, determined to advance again, and communicated his intention to General Reynolds. I carried this message myself, and, after some difficulty, found General Reynolds and requested him to halt and form on the left of McLean. He had fallen back, however, some distance to the rear of McLean's line of battle, so much so that the enemy's skirmishers had actually flanked us, and in returning to the division I had a narrow escape from being captured.

I also asked General Reynolds to ride forward to meet General Schenck, who had directed me to say that he would be at the extreme left of our line for that purpose. General Reynolds neither gave me any positive answer as to whether he would meet General Schenck or any information as to what he intended to do. I do not know if he complied with the request to make his connection on our left, as, on my return to General Schenck, I was immediately sent to General Sigel to represent our position; and when returning again with the order to General Schenck to retire slowly, I met the command executing the movement.

My report was intended merely as a sketch of our movements for General Sigel's information, and I endeavored throughout to be as concise as possible and confine myself solely to the operations and movements of our division. I now submit the above statement, trusting that the explanations will be satisfactory to General Reynolds.

Report of Maj. Gen. S. P. Heintzelman.

ARLINGTON, VA., October 21, 1862.

At 10 a. m. I reached the field of battle, a mile from Stone Bridge, on the Warrenton turnpike. General Kearney's division had proceeded to the right and front. I learned that General Sigel was in command of the troops then engaged.

At 11 a. m. the head of Hooker's division arrived; General Reno an hour later. At the request of General Sigel I ordered General Hooker to place one of his brigades at General Sigel's disposal, to re-enforce a portion of his line then hard pressed. General Grover reported, and before long became engaged, and was afterward supported by the whole division. General Pope arrived between 1 and 2 p. m. The enemy were driven back a short distance toward Sudley's church, where they made another stand and again pressed a portion of our line back. All this time General Kearney's division held its position on our extreme right. Several orders were sent to him to advance, but he did not move till after the troops on his left had been forced back, which was near 6 p. m. He now advanced and reported that he was driving the enemy. This was not, however, until after the renewed heavy musketry fire on our center had driven General Hooker's troops and those he was sent to support back. They were greatly outnumbered and behaved with exceeding gallantry.

It was on this occasion that General Grover's brigade made the most gallant and determined bayonet charge of the war. He broke two of the enemy's lines, but was finally repulsed by the overwhelming numbers in the rebel third line. It was a hand-to-hand conflict, using the bayonet and the butt of the musket. In this fierce encounter of not over twenty minutes' duration the Second New

Hampshire, Colonel Marston, suffered the most. The First, Eleventh, and Sixteenth Massachusetts and Twenty-sixth Pennsylvania were engaged. The loss of this brigade, numbering less than 2,000, was a total of 484, nearly all killed and wounded. I refer you to General Grover's accompanying report.

Had General Kearney pushed the enemy earlier it might have enabled us to have held our center and have saved some of this heavy loss. Kearney on the right, with General Stevens and our artillery, drove the enemy out of the woods they had temporarily occupied. The firing continued some time after dark, and when it ceased we remained in possession of the battlefield.

**THIS DAY MUST NOT BE CONFUSED.**

These all speak of the 29th, not confused with the 30th, for the 30th is in a separate part of the reports.

Lieutenant-Colonel Sewell, commander Fifth New Jersey, reports that on the 29th of August—

I was soon obliged to relieve my right wing with my left, the former having emptied their cartridge-boxes.

His command had emptied their cartridge-boxes and one wing had to be relieved by the other for that reason.

Captain Weidrick, commanding Battery I, New York Artillery, reports in action from 10 o'clock, 29th, until 3 o'clock, when they had to retire on account of loss of ammunition.

Captain Dilger, commanding battery, reports his battery engaged until his ammunition was expended and his battery relieved by another.

Colonel Thompson, One hundred and fifteenth Pennsylvania, reports continuous fighting until his command was relieved by fresh troops, sustaining heavy loss.

Col. G. C. Burling, Sixth New Jersey, was engaged until relieved by fresh troops. His loss was severe.

**NEW EVIDENCE FURNISHED BY CONFEDERATE OFFICERS.**

Fitz-John Portersays he found new evidence. What new evidence? The new evidence is produced by statements from officers of the confederate army for the purpose of showing that on that day he was not required to fight because there was no battle.

**REPORTS OF CONFEDERATE OFFICERS.**

General T. J. Jackson, who commanded the rebel forces on that day, in making his report April 27, 1863, or rather made, from the records he left, by his adjutant-general, says:

My troops on this day (29th) were distributed along and in the vicinity of the cut of an unfinished railroad (intended as a part of the track to connect the Manassas road directly with Alexandria) stretching from the Warrenton turnpike in the direction of Sudley Mill. It was mainly along the excavation of this unfinished road that my line of battle was formed on the 29th [August].

Assault after assault was made on the left, exhibiting on the part of the enemy great pertinacity and determination, but every advance was most successfully and gallantly driven back. General Hill reports that six separate and distinct assaults were thus met and repulsed by his division, assisted by Hays's brigade, Colonel Forno commanding. By this time the brigade of General Gregg, which, from its position on the extreme left, was most exposed to the enemy's attack, had nearly expended its ammunition. It had suffered severely in its men, and all its field officers except two were killed or wounded.

About 4 o'clock it had been assisted by Hays's brigade (Colonel Forno). It was now retired to the rear to take some repose after seven hours of severe service.

After seven hours of severe contest it was relieved because the men were exhausted.

And General Early's brigade, of Ewell's division, with the Eighth Louisiana Regiment, took its place.

On reaching his position, General Early found that the enemy had obtained possession of the railroad and a piece of wood in front, there being at this point a deep cut which furnished a strong defense. Moving through a field he advanced upon the enemy, drove them from the wood and railroad out with great slaughter, and followed in pursuit some two hundred yards.

They were driven back with great slaughter.

Early kept his position there until the following morning.

Now, to show that this was on the 29th let us see what he says in the conclusion of this report:

At a later period Major Patrick, of the cavalry, who was by General Stuart intrusted with guarding the train, was attacked, and, although it was promptly and effectually repulsed, it was not without the loss of that intrepid officer, who fell in the attack while setting an example of gallantry to his men well worthy of imitation. During the day the commanding general arrived, and also General Longstreet with his command.

#### REPORT OF GENERAL A. P. HILL.

Let me call attention to the report of General A. P. Hill, who was in that battle on the day of the 29th:

The evident intention of the enemy this day was to turn our left and overwhelm Jackson's corps before Longstreet came up.

The evident intention of the enemy, speaking of Pope's forces, was to turn Jackson's left and overwhelm him before Longstreet could arrive.

And to accomplish this, the most persistent and furious onsets were made by column after column of infantry, accompanied by numerous batteries of artillery.

The enemy prepared for a last and determined attempt. Their serried masses, overwhelming superiority of numbers, and bold bearing made the chance of victory to tremble in the balance; my own division exhausted—

A. P. Hill's division exhausted—

by seven hours' unremitting fighting, hardly one round per man remaining, and weakened in all things save its unconquerable spirit. Casting about for help, fortunately it was here reported to me that the brigades of Generals Lawton and Early were near by, and sending for them they promptly moved to my front at the most opportune moment, and this last charge met the same disastrous fate that had befallen those preceding. Having received an order from General Jackson to endeavor to avoid a general engagement, my commanders of brigades contented themselves with repulsing the enemy and following them up but a few hundred yards.

#### MOST FURIOUS ONSLAUGHTS ON HIS COMMAND.

General Early reports the same thing in his report on the 29th of August, the time that he took his position, the time he was engaged, and reports it as a severe battle. So Talliaferro and so General Hood. Hood's force was a part of Longstreet's command. Now, what does Hood say? Speaking of the battle of the 29th, he says:

About 4 o'clock in the afternoon the enemy made a fierce attack upon General Jackson, his noble troops holding their ground with their usual gallantry.

At sunset an order came to me from the commanding general to move forward and attack the enemy. Before, however, this division could come to attention they were attacked, and I instantly ordered the two brigades to move forward and charge the enemy, which they did most gallantly, driving them in confusion in front of them. Colonel Law's brigade, being engaged with a very heavy force of the enemy, captured one piece of artillery, three stand of colors, and one hundred prisoners, and the Texas brigade three stand of colors. It soon became so very dark that it was impossible to pursue the enemy any farther. At 12 o'clock at night orders came to retake our position on the right of General Jackson.

There was one of the divisions that General Longstreet had General Wilcox to support in the attack at Groveton. And yet he says at 12 o'clock at night he was ordered to retake his former position. He staid there by Groveton.

#### WHAT GENERAL WILCOX SAID.

General C. M. Wilcox, of General Longstreet's command, said:

Pursuing our line of march, together with the division, we passed by Gainesville, and advancing some three miles beyond, my three brigades were formed in line of battle on the left and at right angles to the turnpike. Having advanced near three-quarters of a mile, we were then halted. The enemy was in our front and not far distant. Several of our batteries were placed in position on the commanding eminence to the left of the turnpike. A cannonading ensued and continued for an hour or two, to which the enemy's artillery replied.

At half past 4 or 5 p. m. the three brigades were moved across to the right of the turnpike, a mile or more, to the Manassas Gap Railroad. While here musketry was heard to our left, on the turnpike. This firing continued, with more or less vivacity, until sundown. Now the command was ordered back to the



turnpike, and forward on this to the support of General Hood, who had become engaged with the enemy, and had driven him back some distance, inflicting severe loss upon him, being checked in his successes by the darkness of the night.

After reaching General Hood's position but little musketry was heard. All soon became quiet. Our pickets were thrown out to the front. The enemy's camp-fires soon became visible, extending far off to our left, front, and right. Remaining in this position until 12 o'clock at night, the troops were withdrawn three-quarters of a mile to the rear and bivouacked, pickets being left to guard our front.

So that by 4 o'clock all the troops that were on the right of Longstreet were turned back on to Groveton and engaged there at Groveton, and staid there until 11 or 12 o'clock at night, leaving nothing but Jones's brigade in the direction of Porter.

REPORTS OF LONGSTREET'S OFFICERS AND OTHERS.

Report of Col. Edward L. Thomas, commanding second brigade, A. P. Hill's division, Jackson's command.

HEADQUARTERS THIRD BRIGADE, LIGHT DIVISION,  
October 28, 1862.

On Thursday, August 28, near Sudley Ford, this brigade was held in reserve by order of General Hill; was under fire, but took no active part, and after the enemy gave way, moved forward and bivouacked for the night on the field. Early on Friday, August 29, the march was resumed, with directions to be prepared for an attack near the railroad. General Gregg's brigade meeting the enemy there, this brigade advanced to his right, the regiments being thrown in successively until all became engaged. The enemy were in strong position on the railroad.

We at once advanced and drove them from it. This position we were ordered to hold, and, if possible, avoid bringing on a general engagement, and held it against several attacks of the enemy in strong force during the day. In the afternoon an overwhelming force attacked us, now almost without ammunition, in front and on the left flanks, and forced us back a short distance, when General Pender's brigade advanced promptly and in fine order to the assistance of the third, most of which joined General Pender, and together they drove back the enemy some distance beyond our previous position, which was held until night, the brigade bivouacking on the field.

Report of Brig. Gen. S. McGowan.

HEADQUARTERS SECOND BRIGADE,  
A. P. HILL'S LIGHT DIVISION, SECOND ARMY CORPS,  
Camp Gregg, Va., February 9, 1863.

Friday, the 29th, was the glorious but bloody day for the brigade. It may be allowed for us to claim that by holding the left steady on Friday we contributed to the success of the great battle on Saturday. The distinguished brigadier-general who commanded, and was present everywhere during the day and exerting himself to the utmost, was himself spared, only to fall upon another victorious field (Fredericksburg), but many of our noblest and best officers and men fell there. The aggregate of the killed and wounded of the brigade in this battle was six hundred and thirteen (618).

Report of Brig. Gen. N. G. Evans, Longstreet's command.

HEADQUARTERS EVANS'S BRIGADE,  
Near Winchester, Va., October 13, 1862.

On the evening of the 29th of August the brigade engaged the skirmishers of the enemy in considerable force on the south side of the road near Groveton, and rendered efficient co-operation to the commands of General Wilcox on the left and General Hood on the right in driving the enemy from his position. The enemy falling back, and the darkness of the night concealing his movements, I formed my brigade in the camp of the enemy, until ordered to fall back by the major-general commanding. Leaving a strong picket in my front, I withdrew about a mile to the rear.

Report of Lieut. Col. R. L. Walker.

HEADQUARTERS ARTILLERY BATTALION, March 1, 1863.

On Friday, the 29th of August, the batteries were placed in position on the ridge in rear and to the left of General A. P. Hill's division. Captain Braxton's battery was engaged early in the forenoon on the extreme left, with the

loss of some of his horses. Upon the cessation of the enemy's fire ours ceased also. In the afternoon a section of Captain Pegram's battery hotly engaged the enemy on the right. His position was in rear of General Field's and Gregg's brigades. The loss of this section was very heavy, and, the fire continuing with unremitted severity, it was withdrawn. Captain Braxton was then ordered to the position, and, with five guns, held it, with loss, under a terrible fire, until night closed in upon the field. Captain Crenshaw's battery was also engaged during the day from a point in rear of General Pender's brigade.

Report of Col. J. B. Walton, of Longstreet's command, of second battle of Manassas.

HEADQUARTERS BATTALION WASHINGTON ARTILLERY,  
November 30, 1862.

On the 29th August, 1862, the four batteries composing the battalion were assigned and served as follows: The fourth company, consisting of two six-pound bronze guns and two twelve-pound howitzers, under Capt. D. F. Bahlman, Lieutenants Norcom, Battles, and Apps, with Pickett's brigade; the second company, with two six-pound bronze guns and two twelve-pound howitzers, under Captain Richardson, Lieutenants Hawes, De Bussey, and Britton, with Toombs's brigade; the first company, with three three-inch rifle-guns, under Capt. C. W. Squiers, Lieutenants E. Owens, Galbraith, and Brown, and the third company, with four light twelve-pound guns (Napoleon), under Capt. M. B. Miller, Lieutenants McElroy and Hero, in reserve.

About noon on the 29th, the two batteries in reserve having halted near the village of Gainesville, on the Warrenton and Centreville turnpike, were ordered forward by General Longstreet, to engage the enemy then in our front, and near the village of Groveton. Captains Miller and Squiers at once proceeded to the position indicated by the general and opened fire upon the enemy's batteries. Immediately in Captain Miller's front he discovered a battery of the enemy, distant about 1,200 yards. Beyond this battery, and on a more elevated position, were posted the enemy's rifle batteries. He opened upon the battery nearest him, and, after a spirited engagement of three-quarters of an hour, completely silenced it and compelled it to leave the field. He then turned his attention to the enemy's rifle batteries, and engaged them until, having exhausted his ammunition, he retired from the field.

Captain Squiers, on reaching his position on the left of Captain Miller's battery, at once opened, with his usual accuracy, upon the enemy's batteries. Unfortunately, after the first fire, one of his guns, having become disabled by the blowing out of the bushing of the vent, was sent from the field. Captain Squiers then placed the remaining section of his battery under command of Lieutenant Owen, and rode to the left to place additional guns (that had been sent forward to his assistance) in position. At this time the enemy's infantry were engaged with the forces on the left of the position occupied by our batteries, and while the enemy retreated in confusion before the charge of our veterans the section under Lieutenant Owen poured a destructive fire into their affrighted ranks. Scores were seen to fall.

Report of Maj. B. W. Frobell, chief of artillery of Hood's division, Longstreet's command, of second battle of Manassas.

CAMP NEAR FREDERICK, MD., September 9, 1862.

At 11 a. m. on Friday I was ordered by General Hood to proceed to the right of the turnpike road and report to General Stuart. This I did, with Captain Bachman's battery, Reilly being already in position on the left, and Garden having no long-range pieces. General Stuart had selected a position near the Orange and Alexandria Railroad. The battery was brought up and immediately opened with marked effect on a column of the enemy moving to the right, which at once changed direction, moving rapidly to the left. Fifteen rounds were fired, when the distance being greatly increased, I ordered Captain Bachman to cease firing. At 1 o'clock p. m. Captain Reilly was ordered to the left of the turnpike and to take position with other batteries on a hill commanding the hills near Groveton House.

Report of Col. E. M. Law, of Hood's division, Longstreet's command, of second battle of Manassas.

HEADQUARTERS THIRD BRIGADE, September 10, 1862.

Leaving Thoroughfare Gap at sunrise on the 29th the brigade marched in the direction of Manassas Junction. At Gainesville, on the Warrenton turnpike, the line of march changed abruptly to the left along the turnpike in the direction of Centreville. On arriving about midway between Gainesville and the stone house, which is situated at the junction of the turnpike and the Sudley Ford road, I was ordered by Brigadier-General Hood, commanding the division, to form the brigade in line of battle to the left of the turnpike and almost at right angles with

it, the right resting on the road and the left connecting with General Jackson's line.

The opposing force of the enemy, as I learned from captured officers, consisted of General King's division of four brigades and a battery of howitzers. One piece was captured and about a hundred prisoners. Among the prisoners were Captain Judson, assistant adjutant-general to General Hatch, and Captain Garish, of the battery.

During the night of the 29th, under orders from General Hood, I resumed the position to the rear of Groveton which I had occupied in the morning.

Report of Brig. Gen. J. B. Hood of operations of his division, Longstreet's command, from Freeman's Ford.

DIVISION HEADQUARTERS, September 27, 1862.

On arriving at Thoroughfare Gap, the enemy were drawn up in line to dispute our passage. After a spirited little engagement with them by Gen. D. E. Jones's troops, on the evening of the 28th instant, our forces were able to bivouac for the night beyond the gap. The next morning, at daylight, the march was again resumed, with this division in the advance, Lieutenant-Colonel Upton, of the Fifth Texas, in command of a party of select Texas riflemen, constituting the advance guard.

Coming up with the rear-guard of the enemy before sunrise, this gallant and distinguished officer drove them before him so rapidly that halts would have to be made for the troops in rear to rest. Early in the day we came up with the main body of the enemy on the plains of Manassas, engaging General Jackson's forces. Disposition of the troops being made, the Texas brigade advanced in line of battle down and on the immediate right of the pike leading to the stone bridge, and Colonel Law's brigade on the left. Arriving on a line with the line of battle established by General Jackson, the division was halted by order of the general commanding.

About 4 o'clock in the afternoon the enemy made a fierce attack upon General Jackson, his noble troops holding their ground with their usual gallantry.

At sunset an order came to me from the commanding general to move forward and attack the enemy. Before, however, this division could come to attention they were attacked, and I instantly ordered the two brigades to move forward and charge the enemy, which they did most gallantly, driving them in confusion in front of them. Colonel Law's brigade, being engaged with a very heavy force of the enemy, captured one piece of artillery, three stand of colors, and one hundred prisoners, and the Texas brigade three stand of colors. It soon became so very dark that it was impossible to pursue the enemy any further. At 12 o'clock at night orders came to retake our position on the right of General Jackson.

Report of Major-General Stuart of operations immediately preceding and including the battle of Groveton.

HEADQUARTERS STUART'S CAVALRY DIVISION,  
ARMY OF NORTHERN VIRGINIA,  
February 28, 1863.

The next morning, 29th, in pursuance of General Jackson's wishes, I set out again to endeavor to establish communication with Longstreet, from whom he had received a favorable report the night before. Just after leaving the Sudley road my party was fired on from the wood bordering the road, which was in rear of Jackson's lines, and which the enemy had penetrated with a small force, it was afterwards ascertained, and captured some stragglers. They were between General Jackson and his baggage at Sudley.

I immediately sent to Major Patrick, whose six companies of cavalry were near Sudley, to interpose in defense of the baggage, and use all the means at hand for its protection, and order the baggage at once to start for Aldie. General Jackson, also being notified of this movement in his rear, sent back infantry to close the woods. Captain Pelham, always at the right place at the right time, unlimbered his battery, and soon dispersed that portion in the woods. Major Patrick was attacked later, but he repulsed the enemy with considerable loss, though not without loss to us, for the gallant Major himself, setting the example to his men, was mortally wounded. He lived long enough to witness the triumph of our arms, and expired thus in the arms of victory. The sacrifice was noble, but the loss to us irreparable.

I met with the head of General Longstreet's column between Haymarket and Gainesville, and there communicated to the commanding general General Jackson's position and the enemy's. I then passed the cavalry through the column, so as to place it on Longstreet's right flank, and advanced directly toward Manassas, while the column kept directly down the pike to join General Jackson's right. I selected a fine position for a battery on the right, and one having been

sent to me. I fired a few shots at the enemy's supposed position, which induced him to shift his position. General Robertson, who with his command was sent to reconnoiter farther down the road toward Manassas, reported the enemy in his front. Upon repairing to that front, I found that Rosser's regiment was engaged with the enemy to the left of the road, and Robertson's videttes had found the enemy approaching from the direction of Bristoe Station toward Sudley.

The prolongation of his line of march would have passed through my position, which was a very fine one for artillery as well as observation, and struck Longstreet in flank. I waited his approach long enough to ascertain that there was at least an army corps, at the same time keeping detachments of cavalry dragging brush down the road from the direction of Gainesville, so as to deceive the enemy (a ruse which Porter's report shows was successful), and notified the commanding general, then opposite me on the turnpike, that Longstreet's flank and rear were seriously threatened and of the importance to us of the ridge I then held. Immediately upon the receipt of that intelligence Jenkins's, Kemper's, and D. R. Jones's brigades and several pieces of artillery were ordered to me by General Longstreet, and, being placed in position fronting Bristoe, awaited the enemy's advance.

After exchanging a few shots with rifle pieces, this corps withdrew toward Manassas, leaving artillery and supports to hold the position till night. Brigadier-General Fitz Lee returned to the vicinity of Sudley, after a successful expedition, of which his official report has not been received, and was instructed to co-operate with Jackson's left. Late in the afternoon the artillery on this commanding ridge was, to an important degree, auxiliary to the attack upon the enemy, and Jenkins's brigade repulsed the enemy in handsome style at one volley as they advanced across the cornfield. Thus the day ended, our lines having considerably advanced.

General Longstreet, in his report, says:

HEADQUARTERS NEAR WINCHESTER, VA., October 10, 1862.

Early on the 29th (August) the columns were united, and the advance to join General Jackson was resumed. The noise of battle was heard before we reached Gainesville. The march was quickened to the extent of our capacity. The excitement of battle seemed to give new life and strength to our jaded men, and the head of my column soon reached a position in rear of the enemy's left flank and within easy cannon-shot.

On approaching the field some of Brigadier-General Hood's batteries were ordered into position, and his division was deployed on the right and left of the turnpike, at right angles with it, and supported by Brigadier-General Evans's brigade. Before these batteries could open the enemy discovered our movements and withdrew his left. Another battery (Captain Stribling's) was placed upon a commanding position to my right, which played upon the rear of the enemy's left and drove him entirely from that part of the field. He changed his front rapidly, so as to meet the advance of Hood and Evans.

Three brigades, under General Wilcox, were thrown forward to the support of the left, and three others, under General Kemper, to the support of the right of these commands. General D. R. Jones's division was placed upon the Manassas Gap Railroad—

ONLY CAVALRY, BRUSH, AND DUST.

Not on this road [indicating] that Porter was on.

upon the Manassas Gap Railroad, to the right and in echelon with regard to the three last brigades. Colonel Walton placed his batteries in a commanding position between my line and that of General Jackson, and engaged the enemy for several hours in a severe and successful artillery duel. At a late hour in the day Major-General Stuart reported the approach of the enemy in heavy columns against my extreme right. I withdrew General Wilcox with his three brigades from the left, and placed his command in position to support Jones in case of an attack against my right. After some few shots the enemy withdrew his forces, moving them around toward his front, and about 4 o'clock in the afternoon began to press forward against General Jackson's position. Wilcox's brigades were moved back to their former position, and Hood's two brigades, supported by Evans, were quickly pressed forward to the attack. At the same time Wilcox's three brigades made a like advance, as also Hunton's brigade of Kemper's command.

These movements were executed with commendable zeal and ability. Hood, supported by Evans, made a gallant attack, driving the enemy back till 9 o'clock at night. One piece of artillery, several regimental standards, and a number of prisoners were taken. The enemy's entire force was found to be massed directly in my front, and in so strong a position that it was not deemed advisable to move on against his immediate front; so the troops were quietly withdrawn at 1 o'clock the following morning. The wheels of the captured piece were cut down, and it was left on the ground. The enemy seized that opportunity to claim a victory, and the Federal commander was so impudent as to dispatch his Gov-

ernment by telegraph tidings to that effect. After withdrawing from the attack my troops were placed in the line first occupied and in the original order.

I now desire to call attention to the report of General Robert E. Lee of the first day, second Bull Run, August 29, 1862. It is as follows:

The next morning, the 29th, the enemy had taken a position to interpose his army between General Jackson and Alexandria, and about 10 a. m. opened with artillery upon the right of Jackson's line. The troops of the latter were disposed in rear of Groveton along the line of the unfinished branch of the Manassas Gap Railroad, and extended from a point a short distance west of the turnpike toward Sudley Mill. Jackson's division, under Brigadier-General Starke, being on the right; Ewell's, under General Lawton, in the center, and A. P. Hill on the left. The Federal Army was evidently concentrating upon Jackson, with the design of overwhelming him before the arrival of Longstreet. The latter officer left his position, opposite Warrenton Springs, on the 28th, being relieved by General R. H. Anderson's division, and marched to join Jackson. He crossed at Kinson's (Hinson's) Mill in the afternoon and encamped near Orleans that night. The next day he reached the White Plains, his march being retarded by the want of cavalry to ascertain the meaning of certain movements of the enemy from the direction of Warrenton, who seemed to menace the right of his column.

On the 28th, arriving at Thoroughfare Gap, he found the enemy prepared to dispute his progress. General D. R. Jones's division being ordered to force the passage of the mountain, quickly dislodged the enemy's sharpshooters from the trees and rocks and advanced into the gorge. The enemy held the eastern extremity of the pass in large force, and directed a heavy fire of artillery upon the road leading through it and upon the sides of the mountain. The ground occupied by Jones afforded no opportunity for the employment of artillery. Hood, with two brigades, and Wilcox, with three, were ordered to turn the enemy's right—the former moving over the mountain by a narrow path to the left of the pass, and the latter farther to the north, by Hopewell Pass.

Before these troops reached their destination the enemy advanced and attacked Jones's left, under Brig. Gen. G. T. Anderson. Being vigorously repulsed he withdrew to his position at the eastern end of the gap, from which he kept up an active fire of artillery until dark, and then retreated. Generals Jones and Wilcox bivouacked that night east of the mountain, and on the morning of the 29th the whole command resumed the march, the sound of cannon at Manassas announcing that Jackson was already engaged. Longstreet entered the turnpike near Gainesville, and moving down toward Groveton the head of his column came upon the field in rear of the enemy's left, which had already opened with artillery upon Jackson's right, as previously described. He immediately placed some of his batteries in position, but before he could complete his dispositions to attack, the enemy withdrew, not, however, without loss from our artillery.

Longstreet took possession (position?) on the right of Jackson, Hood's two brigades, supported by Evans, being deployed across the turnpike and at right angles to it. These troops were supported on the left by three brigades under General Wilcox, and by a like force on the right under General Kemper. D. R. Jones's division formed the extreme right of the line, resting on the Manassas Gap Railroad. The cavalry guarded our right and left flanks, that on the right being under General Stuart in person. After the arrival of Longstreet, the enemy changed his position, and began to concentrate opposite Jackson's left, opening a brisk artillery fire, which was responded to with effect by some of General A. P. Hill's batteries.

Colonel Walton placed a part of his artillery upon a commanding position between Generals Jackson and Longstreet, by order of the latter, and engaged the enemy vigorously for several hours. Soon afterward General Stuart reported the approach of a large force from the direction of Bristoe Station, threatening Longstreet's right. The brigades under General Wilcox were sent to reinforce General Jones, but no serious attack was made, and after firing a few shots the enemy withdrew. While this demonstration was being made on our right a large force advanced to assail the left of General Jackson's position, occupied by the division of General A. P. Hill. The attack was received by his troops with their accustomed steadiness, and the battle raged with great fury.

The enemy was repeatedly repulsed, but again pressed on the attack with fresh troops. Once he succeeded in penetrating an interval between General Gregg's brigade, on the extreme left, and that of General Thomas, but was quickly driven back with great slaughter by the Fourteenth South Carolina Regiment, then in reserve, and the Forty-ninth Georgia, of Thomas's brigade. The contest was close and obstinate; the combatants sometimes delivered their fire at ten paces. General Gregg, who was most exposed, was re-enforced by Hays's brigade, under General Forno, and successfully resisted the attack of the enemy until the ammunition of his brigade being exhausted and all its field officers but two killed or wounded, it was relieved, after several hours of severe fighting, by Early's brigade and the Eighth Louisiana Regiment.

General Early drove the enemy back with heavy loss, and pursued about two hundred yards beyond the line of battle, when he was recalled to the position on

the railroad, where Thomas, Bender, and Archer had firmly held their ground against every attack. While the battle was raging on Jackson's left General Longstreet ordered Hood and Evans to advance, but before the order could be obeyed Hood was himself attacked, and his command became at once warmly engaged. General Wilcox was recalled from the right and ordered to advance on Hood's left, and one of Kemper's brigades, under Colonel Hutton, moved forward on his right. The enemy was repulsed by Hood after a severe contest, and fell back, closely followed by our troops. The battle continued until 9 p. m., the enemy retreating until he had reached a strong position, which he held with a large force. The darkness of the night put a stop to the engagement, and our troops remained in their advanced position until early next morning, when they were withdrawn to their first line. One piece of artillery, several stands of colors, and a number of prisoners were captured. Our loss was severe in this engagement. Brigadier-Generals Field and Trimble and Colonel Forno, commanding Hays's brigade, were severely wounded, and several other valuable officers killed or disabled, whose names are mentioned in the accompanying reports.

**FITZ-JOHN PORTER'S TESTIMONY.**

Fitz-John Porter himself gave testimony before the court of inquiry on General McDowell in Washington city. He appeared before that board and gave testimony as follows (page 1010, board record):

By General McDOWELL: \*

Q. Under what relations as to command did you and General McDowell move from Manassas and continue prior to the receipt of General Pope's joint order?

A. I did not know that General McDowell was going from Manassas, and I have no recollection of any relations whatever, nor of any understanding.

Q. Was there nothing said about General McDowell being the senior, and of his commanding the whole by virtue of his rank?

A. Nothing that I know of.

Q. What time did you take up your line of march from Manassas Junction for Gainesville?

A. The hour the head of the column left, I presume, was about 10 o'clock; it may have been earlier. Ammunition had been distributed to the men, or was directed to be distributed, and the command to be put in motion immediately.

Q. When you received the joint order, where were you personally and where was your command?

A. I was at the head of my column, and a portion of the command or the head of the column was then forming line in front. One regiment as skirmishers was in advance, and also a small party of cavalry which I had as escort. The remainder of the corps was on the road. The head of my column was on the Manassas road to Gainesville at the first stream, as previously described by me.

Q. Please state the order of your divisions, &c., in the column at that time.

A. First, Morell's; next, Sykes's; the other brigade, Sturgis's or Platt's, I know nothing of, having left it, in compliance with orders from General Pope, at Warrenton Junction, with orders to rejoin as soon as possible.

Q. Where was King's division?

A. I left King's division getting provisions and ammunition near Manassas Junction. I gave, personally, direction to General Hatch, in command, to move up as quickly as possible. I did not see General King at all.

Q. The witness says he received an order from General McDowell, or what he considered an order, when General McDowell first joined him, which order he did not obey—will witness state why he disobeyed what he considered an order?

A. The order I have said I considered an order in connection with his conversation, and his taking King's division from me. I therefore did obey it.

Q. What did you understand to be the effect of General McDowell's conversation? Was it that you were to go no further in the direction of Gainesville than you then were?

A. The conversation was in connection with moving over to the right, which necessarily would prevent an advance.

Q. You state you did not think General McDowell's order (if it was one) a proper one, and that for that reason you continued your movement as if you had not seen the joint order. Is the witness to be understood that this was in obedience of what he has stated to be General McDowell's order?

A. I did not consider that an order at that time, and have tried to convey that impression, but it was an expression of opinion which I might have construed as an order; but when General McDowell left me he gave no reply to my question; and seeing the enemy in my front, I considered myself free to act according to my own judgment until I received notice of the withdrawal of King.

**GENERAL POPE'S TESTIMONY REGARDING THE ORDER.**

General Pope testifies in reference to this order on page 14:

Q. Will you state what orders, if any, you gave to General Porter, on the 29th

of August, in reference to the movements of himself and his men, and the grounds upon which those orders were based?

A. In answer to that question, it will perhaps be necessary for me to state, at least partially, the condition of things on the afternoon of the 28th, and during the night of the 28th and 29th of August, for the reason that the information from the front, upon which the dispositions of the army were made, varied at different periods of the day and night. And it was not until toward daylight in the morning of the 29th that I became thoroughly satisfied of the position of the enemy, and of the necessary movements of the troops to be made in consequence. The orders that I gave to General Porter on the 29th of August, as I remember them, were four. One of them was dated in the night I think; I do not remember the time.

That order I think required him, in consequence of information we had received of the enemy's forces beyond Centreville, to move upon Centreville. But about daylight in the morning I sent General Porter an order to take his own army corps, which was then at Manassas Junction; and which by my order had been re-enforced by the brigade of General Piatt, which had come up there in the command of General Sturgis, and King's division of McDowell's corps, which had withdrawn to Manassas Junction, or to that vicinity, during the night of the 28th, and move forward in the direction of Gainesville.

An hour and a half later I received a note from General McDowell, whom I had not been able to find until that hour in the morning, requesting that King's division of his corps be not turned over to General Porter, but that he be allowed to conduct it himself. I then sent a joint order to Generals Porter and McDowell, directed to them at Manassas Junction, specifying in detail the movement that I wished to be made by the troops under their command—the withdrawal of King's division of McDowell's corps, which during the greater part of the night I had understood to be on the Warrenton turnpike, and west of the troops under Jackson. Their withdrawal to Manassas Junction, I feared, had left open Jackson's retreat in the direction of Thoroughfare Gap, to which point the main portion of the army of Lee was then tending to re-enforce him. I did not desire to pursue Jackson beyond the town of Gainesville, as we could not have done so on account of the want of supplies—rations for the men and forage for the horses.

My order to Generals Porter and McDowell is, therefore, worded that they shall pursue the route to Gainesville until they effect a junction with the forces that are marching upon Gainesville to Centreville—the forces under Heintzelman, Sigel, and Reno; and that when that junction was formed (as I expected it would have been very near to Gainesville) the whole command should halt, it being, as I stated before, not feasible with my command in the condition it was in, on account of supplies, to pursue Jackson's forces further. During the whole morning the forces under Sigel and Heintzelman had kept up a skirmishing with the rear of Jackson's forces, they retiring in the direction of Gainesville. They were brought to a stand at the little town of Groveton, about eight miles, I think, from Centreville, and perhaps five or six miles from Gainesville. When I rode on to the field of battle, which was about noon (having been delayed at Centreville), I found that the troops had been sharply engaged, and were still confronting each other.

General Sigel reported to me that he needed re-enforcements in the front; that his line was weak, and that his troops required to be withdrawn from the action. I told him (as I did General Heintzelman, who was present on the ground) that I only wished them to maintain their positions, as the corps of McDowell and Porter were then on the march from Manassas Junction toward the enemy's right flank and ought in a very short time to be in such position as to fall upon that portion of his line. I desired them, therefore, only to maintain the positions they occupied. We waited for the arrival of Generals McDowell and Porter. At 4 o'clock, or some little after that time (perhaps at half past 4 in the afternoon), finding that neither McDowell nor Porter had made their appearance on the field, I sent an order to General Porter informing him generally of the condition of things on the field, and stating to him that I desired him to push forward and attack the enemy in flank, and, if possible, in rear, without any delay. This order was sent to General Porter about half past 4 in the afternoon.

Finding that General Porter did not comply with this order, and receiving a dispatch which he sent to Generals McDowell and King, stating to them that he was about to fall back or was falling back to Manassas Junction, and that he did so because he saw clouds of dust, showing that, in his judgment, the enemy was advancing on the road he was occupying, and stating that it appeared to him from the fire of the battle that he had been listening to that our forces were retreating and the enemy advancing, and he had determined to fall back to Manassas Junction, and recommended Generals McDowell and King to send back their trains also—receiving this note, purporting to be from General Porter to Generals McDowell and King, I sent an order to General Porter directing him, immediately upon the receipt of the order, to march his whole command to the field of battle, and to report to me in person for orders, stating to him that I expected him to comply strictly with that order.

I put it in such form (perhaps not entirely courteous) because I had understood General Porter, upon two several occasions, to have disobeyed the orders that I

had sent him. These are all the orders that I issued on that day and night to General Porter. I will state in addition to what I have already said, that the first of these orders to which I have referred, being subsequently superseded, is not perhaps referred to here. I will also state that the corps of Sigel, Heintzelman, and Reno were formed in line of battle across the Warrenton turnpike, facing to the west, and near the little town of Groveton, or at it, almost at the point where the road from Manassas Junction to Sudley Spring—the Sudley Spring road I think it is called—crosses Warrenton turnpike a little in advance of that road.

(The judge-advocate stated that the first order, referred to by the witness in his answer to the last interrogatory, is not referred to in the specifications, being superseded by a subsequent order.)

Q. Excluding from view the first order given on the morning of the 29th of August, and which directed General Porter to fall back upon Centreville, and which, you say, was superseded by a subsequent order, are or are not the other three orders which you have enumerated in your last answer, given to General Porter on that day, the same which are set forth in the second, third, and fourth specifications of the first charge preferred against him? [Handing witness the charges and specifications.]

A. (After examining them.) They are the same orders.

Q. Do you mean to say that the order set forth in the second specification, addressed to Generals McDowell and Porter, is the one that superseded that first order?

A. No, sir. There was one sent to General Porter previous to that time, giving nearly the same directions, and which is referred to in that joint order as having been given an hour and a half before. I repeated that order in detail, because I was not sure that General Porter had received the order referred to there as having been sent to him an hour and a half before.

Q. At what hour in the morning was this order issued, addressed to Generals McDowell and Porter, and set forth in the second specification of the first charge?

A. I do not remember distinctly. I think it was somewhere between 8 and 9 o'clock in the morning.

Q. Was there any engagement then pending?

A. Fighting was then going on along the turnpike that led from Centreville to Warrenton—fighting was going on quite sharply.

Q. Did the march of General Porter's command, as indicated in that order, lead him toward that battle?

A. Yes, sir; it led him toward the flank of the enemy.

Q. What forces had he under his command that morning when that order was issued?

A. He had, or should have had, at Manassas Junction the whole of his own corps, which, from his report to me at Warrenton Junction, I understood to be between 8,500 and 9,000 men. I had added to his command the troops forming the brigade commanded by General Piatt; they were to belong to the division of General Sturgis, and I think they numbered about 3,500 men. Their exact strength I do not know. That was the impression I got from General Sturgis.

Q. What was his entire command?

A. That was his entire command. I understood him to have had from 12,000 to 12,500 men at Manassas Junction.

Q. What was the distance between Manassas Junction and the scene of this engagement of which you speak?

A. Between five and six miles, I think, though I had not been myself over the road.

Q. Do you know the character of the road? Had you passed over it?

A. I had not passed over it.

Q. Did General Porter obey the order addressed to him and General McDowell?

A. I do not know whether he obeyed it; he did not obey it fully; how far he obeyed it I am not able to say; he certainly did not obey the order fully.

Q. If he had obeyed it, would it not have brought him up with the enemy before half past 4 in the evening?

A. Yes, sir.

Q. On your arriving on the battlefield, where was he reported to you to be?

A. I arrived on the battlefield at 12 o'clock, about noon. At 4.30 p. m. nobody on the field knew where General Porter was at all.

Q. Did or did not General Porter obey the second order to which you refer, issued at four and a half o'clock on the 29th of August, directing him to engage the enemy in flank, and, if possible, in rear?

A. He did not, so far as my knowledge of the fact goes.

Q. You have no knowledge of his having made any attack then?

A. I should have known it if he had attacked.

Q. Will you state to the court and describe the condition of the battlefield at that hour and the importance of his obedience of that order to the success of your troops?

A. Late in the afternoon of the 29th, perhaps toward half past 5 or 6 o'clock—about the time that I hoped that General Porter would be in his position and be



assaulting the enemy on the flank, and when General McDowell had himself arrived with his corps on the field of battle—I directed an attack to be made on the left of the enemy's line, which was handsomely done by Heintzelman's corps and Reno's corps. The enemy was driven back in all directions and left a large part of the ground with his dead and wounded upon it in our possession. Had General Porter fallen upon the flank of the enemy, as it was hoped, at any time up to 8 o'clock that night, it is my firm conviction that we should have destroyed the army of Jackson.

Q. You have stated that General McDowell obeyed that order so far as to appear upon the battlefield with his command?

A. Yes, sir. He arrived on the battlefield, I think, about 5 o'clock, and immediately pushed forward his corps to the front; the division of General King having a very sharp engagement with the enemy along the Warrenton turnpike, in advance of the position that we had occupied during the day.

Q. To reach the battlefield, had or had not General McDowell as great a distance to march as General Porter?

A. Yes, sir; I should think fully as great.

Q. I believe you have stated the distance from Manassas Junction to the battlefield as about four or five miles?

A. Five or six miles; I am not quite sure; that is my impression.

Q. Is or is not that about the distance which the command of General Porter would have had to have marched to have obeyed your order?

A. It would have had to march less than that. You refer, I suppose, to the order I issued about half past 4 in the afternoon.

Q. Yes, sir.

A. General Porter was reported to me by the aid-de-camp who delivered him that order to be two miles or more from Manassas Junction, in the direction of the field of battle.

Q. In point of fact, did or did not General McDowell, in obeying that order, pass General Porter and his command on the way?

A. I so understood. General McDowell can tell that better than I can myself.

Q. I will ask you now in regard to the last order, that which purports to be dated on the 29th of August, at 8.50 p. m., and is set forth in the fourth specification of the first charge. I will ask you if General Porter obeyed that order or not?

A. General Porter appeared himself on the field the next morning with a portion of his command. Two brigades, however, were not present with him, but were reported by aid-de-camp to me as being at Centreville.

Q. Do you or not know at what point those brigades were separated from his command?

A. I do not.

Q. What brigades were they?

A. One was General Griffin's brigade; the other was General Piatt's brigade. I would say, however, of the latter brigade that when they reached Centreville and found there was a battle going on in the advance they marched forward to the field and made their appearance on the ground and took part in the action late in the afternoon of the 30th of August. That is, the brigade of General Piatt. They did so without orders to that effect from anybody.

Q. Do you know what became of General Griffin's brigade, or where it was during the battle of the 30th of August?

A. Of my own knowledge I do not know, except what was reported to me by aid-de-camp from Centreville, that the brigade was there.

Q. It took no part in the action?

A. No, sir.

Q. Will you state what effect, if any, was produced, or was liable to be produced on the fortunes of that battle by the absence of that force?

A. A very great effect. I do not know the strength of General Griffin's brigade; but a brigade of four regiments and a battery of artillery, as I understand it. That was utterly withdrawn from the field; took no part in the action. General Piatt's command got up very late; too late to do anything, except, indeed, to contribute to enable us to maintain our ground until the darkness closed the fight. The presence of the other brigade would undoubtedly have been of immense benefit.

Q. Did or did you not regard the withdrawal of these brigades from General Porter's command, under the circumstances, a clear violation of the order issued to him to report with his command on the battlefield?

(Question objected to by a member of the court.)

The room was cleared, and the court proceeded to deliberate with closed doors. After some time the doors were reopened. Whereupon—

The judge-advocate stated the decision of the court to be that the question should be propounded to the witness.

Q. (Repeated.) Did or did you not regard the withdrawal of those brigades from General Porter's command, under the circumstances, a clear violation of the order issued to him to report with his command on the battlefield?

A. Undoubtedly.

Q. Will you state to the court whether or not you had made known to Gen-

eral Porter the position of the enemy's forces, and your plans and intentions so far and so fully that he knew the critical condition of your army, and the importance of rapid movements and prompt and energetic action to secure your supplies and to guarantee success?

A. It has been my habit to talk very freely with all officers having large commands in the army which I commanded. How far I informed General Porter I am not now able to say. But I should presume, from my habitual practice, and from conversations that I had with him, that he understood pretty fully the condition of the army and the position of the various corps of the army. What I regarded as a necessity it is altogether possible he might have had a different opinion about. Therefore I can not say that he understood the necessity which I understood.

**Major-General PORTER:**

**GENERAL:** Immediately upon receipt of this order, the precise hour of which you will acknowledge, you will march your command to the field of battle of to-day, and report to me in person for orders. You are to understand that you are expected to comply strictly with this order, and to be present on the field within three hours after its reception, or after daybreak to-morrow morning.

**GENERAL M'DOWELL TESTIFIES.**

General McDowell, in speaking of the order, says (court-martial record, pages 82, 83, and 84):

That was the only order I received from General Pope that day.

Q. How did you regard that order; as placing General Porter in subordination to you, or as indicating that you were both to act independently of each other and each of you in subordination to General Pope?

A. I can not say that at that time the order occupied my mind in connection with the question of subordination or otherwise. In starting out on this road, as I mentioned before, General Porter had started out ahead of me under the order he had himself received from General Pope to move with his corps and one of my divisions on a certain road, and I think for a certain purpose, though I am not certain as to that. At that time I conceived General Porter to be under me. When the joint order reached us we were doing what that joint order directed us to do. That joint order found the troops in the position in which it directed them to be. That joint order gave a discretion to the effect that if any considerable advantages were to be gained by departing from that order it was not to be strictly construed.

I decided that considerable advantages were to be gained by departing from that order, and I did not construe it or strictly carry it out. That order contemplated a line being formed which was to be joined on to a line that was to come up from the east to the west, and have troops on the Gainesville road to attack the flank and rear of the enemy, as I understood it, in moving along on the Gainesville road. This long line of troops—those who were ahead of me, General Porter's corps—coming to a halt, I moved along and rode by his corps to the head of the column. On the way up to the head of the column I received a note from General Buford, addressed to General Ricketts, and to be forwarded to me. This note was addressed primarily to General Ricketts, and then to myself, for I do not think General Buford knew of General Porter's being there at the time he wrote it. I will read the note:

**HEADQUARTERS CAVALRY BRIGADE—9.30 a. m.**

**GENERAL RICKETTS:** Seventeen regiments, one battery, five hundred cavalry passed through Gainesville three-quarters of an hour ago on the Centerville road. I think this division should join our forces now engaged at once.

Please forward this.

**JOHN BUFORD, Brigadier-General.**

This was addressed to General Ricketts, who commanded a division. I do not know whether it went to General Ricketts direct or came to me direct, or came to me from General Ricketts. I infer it had reference to that division. General Buford belonged to General Banks's corps, but had been temporarily under my orders the day before, and had gone up to Thoroughfare Gap with Ricketts's division at the time I expected a force of the enemy to come through that gap; and he had fallen back with Ricketts, and at that time, as I understood, occupied a position to our left and front.

Q. Did you or not communicate to General Porter the contents of the note from General Buford, which you have read?

A. Yes, sir; I did communicate it to him.

Q. Where was General Porter's command at that time?

A. On this road leading from Manassas Junction, by way of Bethlehem chapel or church, toward Gainesville. The rear of his column had passed by Bethlehem chapel, which is at the junction of the Sudley Spring road with the road from Manassas Junction to Gainesville.

Q. Bethlehem church enables you to identify that position?

A. Yes, sir. It is at the junction, or the crossing rather, a little beyond the

crossing of the Sudley Spring, or Gun Spring, or old Carolina road, with the road from Manassas Junction to Gainesville. The rear of General Porter's command was beyond that road, the head of it stretching out here in this direction [indicating on the map].

Q. Can you speak with any confidence as to the hour of the day at which you communicated to General Porter the contents of this note from General Buford?

A. It was somewhere before noon, I think. It is impossible for me to keep the hours of the day in my mind on such occasions. I have tried it several times but have never succeeded except some important things, such as daylight and darkness. It was communicated a short time after it was received.

Q. Did you or not, upon communicating this note, confer with General Porter in reference to his movements and your own?

A. I did.

Q. Will you state fully what occurred in that conference?

A. On passing the head of General Porter's column, which was on the road I have before mentioned, General Porter was in advance of the head of his column, I think, on a slight eminence or knoll or rise of ground, with some of his staff near him.

I rode up to him [Porter]; I saw that he had the same order as myself in the joint order.

Soon after my attention was directed to some skirmishing, I think some dropping shots in front of us. The country in front of the position where General Porter was when I joined him was open for several hundred yards, and near, as I suppose, by seeing the dust coming up above the trees, the Warrenton turnpike, which was covered from view by the woods. How deep those woods were I do not know. It did not seem at that time to be a great distance to that road—the Warrenton turnpike. I had an impression at the time that those skirmishers were engaged with some of the enemy near that road. I rode with General Porter from the position he occupied, eastward, to the right—that is, the column being somewhat west of north, and I going east, made an angle with the line of troops on the road.

The joint order of General Pope was discussed between us—the point to be held in view, of not going so far that we should not be able to get beyond Bull Run that night; that was one point, the road being blocked with General Porter's troops, from where the head of his column was back to Bethlehem church; the sound of battle, which seemed to be at its height on our right toward Groveton; the note of General Buford, indicating the force that had passed through Gainesville, and, as he said, was moving toward Groveton, where the battle was going on, the dust ascending above the trees, seeming to indicate that force to be not a great distance from the head of General Porter's column.

I am speaking now of that force of the enemy referred to by General Buford as passing down the Warrenton turnpike toward Groveton. I understand this note of General Buford to refer to a force of the enemy. The question with me was how soonest within the limit fixed by General Pope this force of ours could be applied against the enemy. General Porter made a remark to me which showed me that he had no question but that the enemy was in his immediate front. I said to him: "You put your force in here, and I will take mine up the Sudley Spring road on the left of the troops engaged at that point with the enemy," or words to that effect. I left General Porter with the belief and understanding that he would put his force in at that point.

I moved back by the shortest road I could find to the head of my own troops, who were near Bethlehem church, and immediately turned them up north on the Sudley Spring road to join General Reynolds's division, which belonged to my command, and which I had directed to co-operate with General Sigel in the movements he (General Sigel) was making at the time I left him in the morning. After seeing the larger part of my troops on the Sudley Spring road I rode forward to the head of the column. I met a messenger from General Pope. I stopped him and saw that he had an order addressed to General Porter alone. I do not recollect more than the general purport or tenor of that order. It was to the effect that he should throw his corps upon the right flank or rear of the enemy from the position he then occupied. When I say right flank, I do so merely because of my knowledge of the position of the forces, not from any recollection of what that order contained on that point.

Q. Was or was not the messenger to whom you refer who bore that order a staff officer, Capt. Douglas Pope?

A. I do not recollect; I do not think it was.

Q. You did not meet on the way, or take from the hands of any other staff officer on that day, an order from General Pope to General Porter except this one, did you?

A. No, sir; and I did not take this from his hands in one sense. I examined it, gave it back to him, and he went on his way.

Q. Is Captain Pope personally known to you?

A. Yes sir; he is. My impression is that it was not Captain Pope, but I will not be confident. I do not remember who it was.

Q. I will read you an order which is set forth in specification 1 of charge 2.

(The order was read accordingly.) Do you or not recognize that as the order which you saw and read?

A. I can only say that the order that I saw in passing was of that same import. Whether that was the order or not I can not say.

Q. You have said that the accused made an observation to you which showed that he was satisfied that the enemy was in his immediate front; will you state what that observation was?

A. I do not know that I can repeat it exactly, and I do not know that the accused meant exactly what the remark might seem to imply. The observation was to the effect—putting his hand in the direction of the dust rising above the tops of the trees—"We can not go in there anywhere without getting into a fight."

Q. What reply did you make to that remark?

A. I think to this effect: "That is what we came here for."

Q. Were there any obstacles in the way of the advance on the part of General Porter's command upon the flank of the enemy?

A. That depends upon what you would call obstacles. A wood is an obstacle.

Q. I mean insuperable obstacles, in a military sense.

A. I do not think we so regarded it at that time. I did not.

Q. Was or not the battle raging at that time?

A. The battle was raging on our right; that is, if you regard the line of the road from Bethlehem church to Gainesville to be substantially northwest, the battle was raging to the right and east of that line at Groveton.

Q. At what hour did you arrive upon the battlefield with your command and take part in the engagement?

A. I can not say as to hours.

Q. As nearly as you can?

A. It was in the afternoon. I do not know at what time the sun set. I should not be able to fix the hour. It may have been 4 o'clock or 5 o'clock. One of my divisions, which had been the day before up to Thoroughfare, and the day before that on a long march, extending to late in the night, and which had started that day, Friday, and had marched since 1 o'clock in the morning, had its rear guard some distance behind, and that rear guard did not get up to Manassas until the next morning, though it got within a couple of miles of that place. That was the rear guard of the corps, in that instance a brigade.

Q. Did you or not afterward see General Porter during that engagement of the 29th.

A. No, sir; I did not.

Q. Did he or not, with his command, take any part in that battle?

A. I do not know, of my own knowledge.

Q. What would probably have been the effect upon the fortunes of that battle if, between 5 and 6 o'clock in the afternoon, General Porter, with his whole force had thrown himself upon the right wing of the enemy, as directed in this order of 4:30 p. m. of the 29th of August, which has been read to you?

A. It is a mere opinion that you ask?

Q. Yes, sir.

A. I think it would have been decisive in our favor.

Q. Did any considerable portion of the confederate forces attack General Pope's left on Saturday, passing over the ground that General Porter would have passed over had he attacked the enemy's right on Friday?

A. I can not say. They may have done so. I do not know.

Q. All the localities of which you have spoken in your testimony are in the State of Virginia, are they not?

A. Yes, sir.

Examination by the judge-advocate here closed.

#### Examination by the ACCUSED:

Q. Will you say whether you found General Porter's corps in the position where you expected to find it when you joined him the first time you saw him on the 29th of August?

A. I did not think anything about it; it was not a question with me.

Q. State if, when you found him at the place where the joint order required him to be, you stated to him, or thought, that you found in his front a different state of affairs than you had expected to find.

A. I do not recollect of such a statement.

Q. Try to recollect if, upon that occasion, you did not say to him, in substance, that he was too far in the front, and that the position in which he was was not a position in which to fight a battle, or anything to that effect?

A. I do not recollect.

Q. Are you sure you did not?

A. I have no recollection of any question about that place not being the one to fight a battle. Something may have been said about not going further toward Gainesville, with reference to falling behind Bull Run that night.

Q. If anything was said in relation to the facility of getting back to Bull Run that night, do you remember whether it was that the accused was too far in the front, or would be too far in the front if he moved farther on?

A. It was hardly a question of going further on. It was more a question of turning to the right and going against the enemy than passing down the Warrenton turnpike.

Q. You say that something might have been said by the accused about getting back to Bull Run; are you to be understood as saying from recollection that he was told to keep in view his ability to get back to Bull Run?

A. That was the expression in the joint order.

Q. Was it used by you?

A. We referred to that point.

Q. When did you first see the order of which you have spoken in your testimony in chief, that of 4:30 p. m. of the 29th of August, which directed the accused to turn the right flank and attack the enemy in the rear? You have been understood as saying that that was the effect of the joint order. That is not your meaning, is it?

A. It was the effect of the joint order as modified by me, when I left General Porter, so far as I had the power to modify that order, and so far as the understanding with which I left him at the time.

Q. Are you to be understood as saying that before you saw the order to General Porter of 4:30 p. m. of the 29th of August, you, under the discretion you supposed was reposed in you by the joint order to yourself and General Porter, had directed him to attack the enemy's right flank and rear?

A. To that effect, yes, sir; I knew I had that discretion; I did not suppose it. This is the clause under which I supposed, if you prefer that term, I had that discretion: "If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out." That joint order contemplated General Porter's corps and my own to be employed differently from the way I had arranged when I left General Porter, which arrangement was to separate them, leaving him alone on the Gainesville road, while I went up the Sudley Spring road.

Q. Did you under that joint order suppose that you were authorized to take any part of General Porter's command and place it in such a position that it would not have been in the power of his command to reach Bull Run that night or the following morning?

A. That question, if I understand it, did not come up in my mind. The order itself stated that one thing was to be held in view. I will read that part of the order. "One thing must be held in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning."

Q. Was it your understanding of that joint order of the 29th of August that you could, under that order, direct General Porter to take his command into a position from which that "one thing" could not be accomplished?

A. Certainly not. The order does not say that I should disobey the order, and that is what the question amounts to.

Q. Have you any recollection that after you left the accused on the 29th, and took with you King's division, the accused sent a message to you requesting that that division should be permitted to stay with his command?

A. I received no such message.

Q. Will you say whether, in consequence of a message or otherwise, you sent a message to the accused with your compliments, telling him that you were going to the right and should take King with you, and that he, the accused, should remain where he was for the present, and if he had to fall back to do so on your left?

A. I do not recollect.

Q. Are you able to say that you are certain that you did not send such a message?

A. That is my impression, that I did not.

Q. What distance did you march with that portion of your command which you took to the battlefield from the point where you left the accused to the point upon the battlefield that you reached with that portion of your command?

A. Somewhere about four miles.

Q. What road did you travel, or did you travel any route known as a road?

A. The troops went by the Sudley Springs road from Bethlehem church.

Q. When you left the accused where you found him on the 29th of August, were you at that time advised that Longstreet's corps or any other corps of the confederate army was marching on to unite with the right of Jackson?

A. I did not know anything about Longstreet's corps or Jackson's corps. I have mentioned before that I received a note from General Buford that seven-teen regiments, a battery, and five hundred cavalry were marching from Gainesville upon Groveton. To whom they belonged or to whom they were going was not a matter of which I was informed.

Q. Do you know now whether the information given by General Buford in the note to which you have just referred was correct?

A. I know nothing more now than I knew then; I believed it then to be correct.

Q. Will you state, if the force to which General Buford referred in his note actually passed through Gainesville at thirty minutes past 9 o'clock on the 29th of August, how long you suppose it would have taken to have joined the force in front, which, as we have supposed, was commanded by Jackson?

- A. It would depend upon how fast they marched.
- Q. I know that.
- A. I do not know how fast they marched, so I can not tell.
- Q. How long would it have taken them if they had marched as fast as you think they could have marched?
- A. I have formed no estimate as to how fast those troops can march.
- Q. If those troops, in fact, marched as fast as you have marched your own troops upon any occasion, how long would it have taken them?
- A. To go from Gainesville?
- Q. Yes, sir.
- A. Without stops, without obstacles, formations, or checks of any kind, simply marching along the road?
- Q. The question has reference to the country as it is, a distance of, as you say, about four miles.
- A. It was somewhere between four and six miles. Troops march readily from two miles to two miles and a half an hour, if there is nothing to prevent them, if they are not disturbed by stopping up the roads with wagons, getting breakfast, or something of that kind.
- Q. From your knowledge of the actual condition of the country over which that force was supposed to be passing, can you tell whether there were any obstacles to their march, and, if there were any, what were they?
- A. Not having gone over the road, I do not know anything about the obstacles, one way or the other.
- Q. Do you know what was the average number of the regiments of the confederates—each regiment, I mean?
- A. Do you mean the strength of each regiment?
- Q. Yes, sir.
- A. They consisted of all the way from two hundred, or even as low as one hundred and fifty, up to one thousand or even twelve hundred. I have taken a great deal of pains at different times in examining deserters, scouts, spies, negroes, and prisoners to ascertain that matter, and I find that nothing varies so much as the strength of the regiments on the other side. I have the impression that they were not very strong; that their average was certainly not greater than our own, if it was as great; but that it varies at different times. Before they had their conscription it was very low; after the conscription their regiments were quite full. I have no personal knowledge of the matter at all. I give the sources from which I obtained this estimate.
- Q. Have you a knowledge now of what was the actual force of the enemy under the command of Jackson, or did you know that Jackson was in command of the enemy?
- A. I did not know that Jackson was there; I have been told that he was there. I do not know what his force was.
- Q. And do you know or not what was the amount of the confederate force that was coming up?
- A. Coming up when and where?
- Q. As stated in the note from General Buford?
- A. Nothing more than he told me in that note.
- Q. How long had you left the accused on the 29th of August when you saw the order dated at 4.30 p.m. of that day, which was handed you by some officer?
- A. I can not tell; I do not recollect. I rode from the head of his column back to the head of my own column, and as rapidly as I could get my troops into position on the other road, and waited until the larger part of them had entered upon that road. Then, on riding by them to go to the head of my column on the Sudley Springs road, I met this messenger. I can not tell how long all this took. I can not fix the time when I left General Porter, and, of course, can not fix the time when I saw this messenger.
- Q. How often during this campaign of General Pope in Virginia, of whom you have spoken, had you seen the accused before you saw him on the 28th of August?
- A. I had not seen him during that campaign before I saw him on the 29th of August.
- Q. How long were you together during that interview of the 29th of August?
- A. I can not fix the exact time. We rode together some distance; perhaps a mile; perhaps it may have been more; I do not recollect now.
- Q. Was it five, ten, fifteen, or twenty minutes?
- A. Yes, sir.
- Q. Which?
- A. You may put it at fifteen minutes, or at twenty minutes.
- Q. During that conversation, that interview, did the accused say anything or do anything from which you inferred disloyalty upon his part, or unwillingness to perform his duty under the command of General Pope?
- A. No, sir; what he said was the reverse. He professed to have but one feeling, which was that for the success of his country. This was said, I think, in reference to the embarrassment which I have before alluded to, about General King's division going under him, General Porter. It was not a question with me about loyalty or disloyalty; I never think of such things; what I mean is this: I assume everybody to be loyal; my suspicions do not run that way. The

suspicion that persons who hold commissions as general officers in the Army are disloyal does not occur to me.

Q. It is not recollected what you said in relation to the embarrassment you speak of growing out of King's division being under General Porter's command. Will you state what it was that you understood him to refer to?

A. The embarrassment was rather on my side than on his; the embarrassment I refer to was this: I came down to take King's division and bring it up along with my other division, that is, with Reynolds's division, then engaged at Groveton. I found it with an order to go under General Porter in another direction; that was what produced the embarrassment. General Porter had nothing to do with that embarrassment; I may say that we were both embarrassed, I at finding one of my divisions under his command, and he at finding himself under my command. I do not know that "embarrassment" is the proper word to use; what I meant was that I found things different from what I expected to find.

When I spoke of one of my divisions going under him, he suggested that I was the senior officer, as between himself and myself, and that I could take the command of the whole force—his corps and my own force—and we went forward at first in that way before the joint order reached us. I did not go to that place expecting to find General Porter; I went there to find my own division and I found General Porter there with an order to take one of my divisions under his command. That was not foreseen by the general-in-chief of that army, who was absent, and the matter was solved in the way I have stated, I commanding General Porter's corps and my own division. We then received the joint order, which directed the very things which we had ourselves done. The order was sent by General Pope upon the receipt of a note from me, in reference to this matter of my division.

Q. Do you know from what point King's division had marched on that day, or the day before, in order to get to the point where you found it on the 29th of August?

A. It had marched from some point or some place on the Warrenton turnpike, between Gainesville and Groveton, where it had an engagement with the enemy, back to Manassas Junction, having left, as I was informed by General Reynolds, about 1 o'clock on the morning of Friday the 29th of August. It had been ordered the day before to march from Buckland Mills, which is beyond Gainesville, to Manassas Junction. Before it had reached Bethlehem church it was ordered to move on to Centreville, in compliance with orders from General Pope, and had been sent from the road—or I do not know that it was on any road, but from the position where the order reached it—north to the Warrenton turnpike, and thence to move along that pike to Centreville. It had become engaged with the enemy in the evening, and then, as I have before stated, fell back the next morning, starting at 1 o'clock, as I understood from General Reynolds. These facts I learned on the morning of Friday the 29th, from General Reynolds, who had been personally with King's division; had ridden over to it the night before.

Q. Do you recollect whether you informed the accused at that interview that General Ricketts had been driven from Thoroughfare Gap, and that General King had been driven from Gainesville by the enemy?

A. I do not recollect having used such expressions. I recollect having informed him of the fact that General King's division, as I had learned from General Reynolds, had fallen back that morning, and also that General Ricketts's division had fallen back from Thoroughfare Gap. At the time I saw General Porter I had not got up with either of these divisions. I found them after my interview with him.

Q. Did you then know that Generals Ricketts and King had met with the enemy, the one at Thoroughfare Gap and the other at or near Gainesville, and that they were then falling back in consequence of the enemy?

A. I knew they had met the enemy the night before, but at the time I met General Porter I knew nothing of the details of the engagements which they had had with the enemy, nor do I recollect having said to General Porter, or having known, anything about the motives for General King's falling back to Manassas from this position on the road between Gainesville and Groveton; I have an idea that there was a question of supplies connected with the falling back from that point. General Reynolds had told me that he had told General King that he would be alongside of him in the morning. At the time I saw General Porter the whole subject of the engagements of the evening before, except the mere fact there had been engagements, was unknown to me; I mean the details in regard to those engagements.

Q. You have stated, or have been understood to have stated, that when you were with the accused, on the 29th of August, the battle was going on, and you could hear it. Will you state if you heard any other firing than that of artillery?

A. I do not recollect about that now. The noise was very decided, and distant from where we were, I should suppose, about four miles.

Q. Do you know when the infantry firing on that day commenced; was it, or not, about 4 o'clock?

A. I think it was much earlier than that; I have only one thing to guide me,

and that is General Reynold's report; I can refer to that and find out more particularly if it is desired.

The examination by the accused was here closed.

Thereupon the court adjourned to 11 a. m. to-morrow.

The examination of Maj. Gen. Irvin McDowell was then resumed, as follows:

Examination by the COURT:

Q. Did or did not General Porter put his troops in action at the point indicated by you, at the time he said he could not go in anywhere there without getting into a fight?

A. Of my own knowledge I know nothing of what General Porter did after I left him.

Q. In departing from a strict obedience to the joint order of the 29th of August, did you or not extend that departure beyond your own immediate command; that is, did you change the order with respect to General Porter's corps?

A. General Porter and I started out from Manassas with the understanding that under the articles of war applicable to such cases I had the command of the whole force—his own and my own. We each of us received a joint order from General Pope, our then commander-in-chief, which order, while it did not at the time change the relations between General Porter and myself, seemed to imply that those relations were not to be constant, were not to continue.

I decided, under the latitude allowed in that order, that General Porter should post his troops in to the right of where the head of his column then lay, and that I would take mine away from the road on which our two commands then lay up the Sudley Springs road into the battle, in this way dissolving the joint operations of our two corps, and from the moment I left General Porter I considered he was no longer under my immediate control, or under my immediate command, or my direct orders, but that he came under those of our common commander-in-chief, we not then being on the same immediate ground. The article to which I refer is the sixty-second article of war, which directs that when troops happen to meet, the senior officer commands the whole. I considered that article of war to apply up to the time that I left General Porter and broke my command away from his, after which I conceived that his relations were direct to the commander-in-chief; therefore, in answer to the question, to that extent I did interfere with his corps, by separating mine from it, and also by indicating where I thought his corps ought to be applied against the enemy.

Q. Did you report to General Pope any change you had made in the operations of that joint order?

A. No further than by bringing my troops up, reporting to him that they were there, and receiving his orders. His order to General Porter direct met me on my way to join the main army. I did not know at that time that General Pope was at that particular place.

Q. When you saw the order from General Pope to General Porter, the one subsequent to the joint order, did you give or had you given any order to General Porter which would interfere with his obedience to it?

A. None.

Q. The orders you had given to General Porter were not in opposition, or at least not of a different character from the one that came to him from General Pope?

A. They concurred. The arrangements that I supposed to exist when I left General Porter concurred with the order which I afterward saw from General Pope to General Porter. They were to the same effect, except as to details, which General Pope may have given. I gave no details.

Q. Would or would not the presence of General Pope, an officer superior in command to both yourself and General Porter, render inoperative or inapplicable the article of war to which you have referred?

A. It would depend upon his presence, whether it was immediate or not.

Q. We speak of such presence as existed then.

A. We did not so consider it. General Pope, according to the note we received, was at Centreville, which I suppose was some six miles off, and we were going away from him. I will mention further that the day before nearly a similar case happened, when General Sigel and myself were together at Buckland Mills, and I commanded General Sigel. That was done by a direct order from General Pope, before given. Still, it would have been the same if he had not given that order.

Q. Could the accused have engaged in the battle according to your order and according to the subsequent order of General Pope and still have fallen back to Bull Run within the time named in the joint order to yourself and the accused?

A. Yes, sir.

Q. From your knowledge of the nature of the country between General Porter's column and the forces engaged on the 29th of August, was there anything to have prevented the accused from making an attack upon the enemy's right or rear, as directed by General Pope? If so, state what it was.

A. My knowledge of the country is derived principally, first, from having gone



over the railroad from Manassas to Gainesville in a car or in a locomotive, which gave me but little idea of it, as I was engaged while going over with matters which prevented my paying attention to the country; next, in marching from Buckland Mills to Gainesville, and from Gainesville east along the Warrenton turnpike for a mile or two—I do not remember the exact distance—then turning off to the right and south, and going across the country to Bethlehem Church, and thence to Manassas; then from the fact that General Reynolds's division, which had the lead on the occasion that I refer to, going from Gainesville toward Groveton, had gone further on that road than I went myself, had turned to the right and gone toward Bethlehem Church; and from the fact that General King's division, which had gone on that same road toward Groveton from Gainesville, and had turned down south of that road, had again gone north on to that road, had engaged the enemy at a certain place, had fallen back to Manassas from that place, which place I learned was nearly reached, if not quite, on Friday, the day of the battle, by the troops moving from Groveton west; and from the fact that the enemy's force had moved to the south on Saturday, and turned our left on that day. These movements by two divisions of my corps, my own movements, and the movements of the enemy gave me the belief that troops could move through the country comprised between the Warrenton turnpike and the Sudley Springs road and the road from Bethlehem church to Gainesville. I will mention further that that country is a mixture of woods, clear ground, and hills, and that it is easy for troops to march without being seen or seeing the enemy.

Q. Does the country which you have just described include that over which General Porter was required to march in obeying the order of 4.30 p. m. from General Pope to attack the enemy?

A. Yes, sir. I would say that I do not know that order by that hour.

Q. Please state the ground on which you formed the opinion that if the accused had attacked the right wing of the rebels, as he was ordered, the battle would have been decisive in our favor.

A. Because on the evening of that day I thought the result was decidedly in our favor, as it was. But, admitting that it was merely equally balanced, I think, and thought, that if the corps of General Porter, reputed one of the best, if not the best, in the service, consisting of between twenty and thirty regiments and some eight batteries, had been added to the efforts made by the others, the result would have been in our favor very decidedly.

Q. Was there anything besides mere advantage in numbers from which that result would have followed?

A. And position.

Q. What particular advantage in position was there?

A. The position in which that force would have been applied, while the main body was so hotly engaged in front, would have been an additional powerful reason for so supposing.

Q. When the accused said to you that he could not go anywhere there without getting into a fight, did he or not appear to be averse to engaging the enemy?

A. I can not say that it made that impression on me, though in giving my answer I took the view that he did so imply and made the remark; but I did not think he was averse to engaging the enemy. I mean by that that that was not seriously a question with me, for when I left him I thought he was going to engage and would engage the enemy.

Q. Had General Porter taken part in the action of August 29 would you not have been likely to have known it?

A. I heard that he did fire some artillery, and I did not hear his fire; so that he might have gone into action without my knowing it at that time, because where I was there was a great deal of noise; and the noise that his engagement might have made might have been in a direction which would have confounded it with other noise.

Q. Up to what hour did the battle continue on that day, and how long was your command engaged in it.

A. It continued until after dark, or continued to such an hour in the evening when you could see the flash rather than the smoke. Of my command part of King's division was actively engaged to the front for, I should think, something like an hour, it may have been more, before the battle terminated. I speak of the active collision.

#### GENERAL B. S. ROBERTS'S TESTIMONY.

This is the testimony of General B. S. Roberts (court-martial record, page 50):

Q. What do you know, if anything, in regard to the order issued by General Pope to General Porter, set forth in the third specification of the first charge, bearing date 4.30 p. m. of the 29th August?

A. About 4.30 p. m. of the 29th of August it was supposed by General Pope that General Porter was near the field of battle. The direction in which the first order required him to move would have brought him, as was supposed, near the field of battle before that hour; and I had noticed, in the direction where I knew General Porter was expected, the flash and the smoke from some places

of artillery, and I inferred it to be artillery from General Porter, who was expected to attack there about that time. But it very soon ceased, and General Pope then wrote another order to General Porter, which, according to my recollection, stated that the direction of his movements would bring him on the enemy's right flank or rear, and that he wished him to press forward and attack immediately.

Q. Is or is not the order to which you now refer the one set forth in the third specification of the first charge?

A. That is the order to which I refer.

Q. Will you state what you know, if anything, in regard to General Porter's having either obeyed or disobeyed those orders?

A. I know that General Porter did not attack as he was directed to attack in that order. I was on that part of the field several times, and was expecting every moment that the attack would be made, and was watching for it with a great deal of anxiety, but it was not made.

Q. Did you continue upon the field until the engagement closed?

A. I was on the field all day, and remained on the field all that night.

Q. What were the results of the battle when the night closed in?

A. General Pope's troops, when night closed in, occupied quite a portion of the field from which the enemy had been driven, and in my opinion, although the battle was not a decisive one, the advantages of the day were in favor of General Pope's army.

Q. In view of what the army had accomplished during the battle of the day in the absence of General Porter's command, what do you suppose would have been the result upon the fortunes of the battle if General Porter had attacked, as ordered by the order of 4.30 p. m., either on the right flank or on the rear of the enemy?

(The accused objected to the question.

The court was thereupon cleared.

Some time after the court was reopened the judge-advocate announced that the court determined that the question shall be answered.

The question was again propounded to the witness, as follows:)

Q. In view of what the army had accomplished during the battle of the day in the absence of General Porter's command, what do you suppose would have been the results upon the fortunes of the battle if General Porter had attacked, as ordered by the order of 4.30 p. m., either on the right flank or the rear of the enemy?

A. I do not doubt at all that it would have resulted in the defeat, if not in the capture, of the main army of the confederates that were on the field at that time.

#### GENERAL DANIEL BUTTERFIELD'S TESTIMONY.

General Daniel Butterfield, one of his own commanders, testifies as follows:

Q. State whether the point at which you were directed was on the same side of the Manassas Railroad or on the other side from the one upon which you were at the time.

A. The point at which I was directed was across the railroad.

Q. Which direction from the point from which you were moving?

A. To the right, between Groveton and Gainesville; I understood it to strike between Groveton and Gainesville, keeping the movement toward Gainesville, covering this road that led up to Gainesville, a dirt road; and the leaning, if anything, was to be to the right rather than to the left (road marked on the map). And in pursuance of that order I put my brigade in motion, saw that it started out, and then proceeded in advance myself with my staff to make a personal reconnaissance, to look up a position and see whatever difficulties might be in the way. I understood myself not at liberty to bring on this engagement until the division could be deployed behind, unless I could gain a position, finding affairs that I could handle in front of me.

I went out personally with my staff after seeing the head of my column in motion, leaving it in charge of the senior colonel, Lansing, of the Seventeenth New York. I proceeded until I came up in close proximity to the enemy's skirmishers, when one of my staff officers asked me if I proposed to tackle the enemy alone. I said no; I had troops behind; I turned around, and, to my astonishment, saw that my brigade that I had put in motion, and seen well out over toward this dry branch, were not there—had returned and were out of sight. I returned with great rapidity and considerable temper. I did not understand why my command had left me; I came back and found that my brigade had moved off to the right in these woods; which were very thick. There was a little road running along here, and they were out in front of this and had come to a halt. That is, they were back of Dawkin's Branch, back on the high land, on this side of the railroad—south side of the railroad—in the woods. I asked my senior officer what it meant—his returning without any order from me; he said he had received orders directly to return, and not to make the advance.

I was in no very pleasant humor about that method of proceeding. He offered as his excuse that the orders had come direct from a staff officer of Gen-

eral Porter, or from General Porter himself. I asked where General Porter was. He said he had gone in this direction, in the woods, with General McDowell. I met one of General Porter's staff officers and entered a complaint against his order withdrawing my troops without the order coming from me when I was in front. I received answer that it was a sudden movement in consequence of something that had occurred between General Porter and General McDowell.

Q. You were informed by the staff officer that that was the reason it was given?

A. That that was the reason the order was given. We then were moved a little farther to the right, then returned to the left; then we went up and took position again under same order over on the same ground, and were withdrawn again. These different movements occupied until dark. Then we went into camp rather with the expectation, as I judged from what came to me from General Morell, of an attack from the enemy upon us.

COL. B. F. SMITH'S TESTIMONY.

Col. B. F. Smith testifies:

By the JUDGE-ADVOCATE:

Q. Will you state your position in the military service of the United States?

A. I am a captain of the Sixth Regular Infantry and colonel of the One hundred and twenty-sixth Regiment of Ohio Volunteers.

Q. Will you state to the court whether you were serving with any part of the Army of Virginia, commanded by Major-General Pope, on the days of the 27th, 28th, 29th, and 30th of August last; and, if so, in what brigade and division?

A. I was serving in Colonel Chapman's brigade of General Sykes's division.

Q. In what direction did that brigade march on Friday, the 29th of August last?

A. We had marched from Fredericksburg by way of Warrenton Junction, and arrived at Manassas Junction, I think, on the 29th of August, the day before the battle of Bull Run. We arrived exactly at the place where the railroad had been destroyed; the wreck of the train was there, and there we halted. Late in the day, in the morning, we retraced our steps to the branch railroad running, I think, toward Gainesville or Manassas Gap, and followed the direction of that road some few miles. We then halted on some rising ground, where we could see the country beyond, over the woods, the tops of the trees. It was a wooded country. While we were halted there a battery of the rebels opened upon us, but fired some three or four shells only, I think; there may have been a half a dozen. Our brigade then marched into a field and the regiments were placed in order of battle. I recollect that General Morell's division was in our advance, on the lower ground.

Some of our pieces replied to this rebel battery. I received permission from the commanding officer of my regiment to go to a more elevated piece of ground, a few rods distant, and while there I saw our batteries reply. A short time afterward, probably a half an hour, we received orders to retrace our steps and march back in the direction we had come. We then marched back to near Manassas Junction, and camped in the woods alongside this branch railroad I have mentioned. That night I was placed on duty as the field officer of the pickets of Sykes's division. About daybreak the pickets were called in, and we marched toward the battlefield of Bull Run, and were engaged in that battle.

Q. What was the effect of the reply of your guns to this attack of the rebel battery?

A. It seemed to silence that battery, and it withdrew. At least that was the impression I had at the time.

Q. What amount of infantry force, if any, did there seem to be supporting this rebel battery?

A. I did not see them.

Q. Before you received orders to fall back and retrace your steps along this road, had or had not this rebel battery been completely silenced?

A. I think it had been.

Q. Were there not at that time clouds of dust in view showing an advance of the enemy?

A. Clouds of dust were distinctly visible farther over beyond the trees. Whether there were troops advancing or whether they were moving in another direction I could not tell. I could see distinctly the clouds of dust, as if there was a large body of troops moving.

Q. Did you or not see the accused, General Porter, at the head of the column on that day?

A. No, sir; I do not recollect of seeing General Porter at all that day.

TESTIMONY OF SOLOMON THOMAS.

Solomon Thomas, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Q. Where were you on August 29, 1862?

A. With General Fitz-John Porter's corps, Eighteenth Massachusetts, Martin-dale's brigade, Morell's division.

Q. Do you recollect being at Manassas Junction on that day?

A. I do.

Q. Did you move off on the Gainesville road?

A. We moved up on the line of the railroad. We moved more in a direct line in front, though we were intending to move to the right.

Q. How far upon that road did your regiment go?

A. We went upon that road nearly to a small creek, or what had been originally a small creek; it was dry, or nearly so, at that time.

Q. What did you do there?

A. We then halted, and the Thirteenth New York, or a part of it, which was thrown out as skirmishers—a battery was planted in our front a little to our right—in the fields, and as the skirmishers of the Thirteenth advanced we were deployed to the right, into the woods; our right rested in the woods. We halted and lay down. This was probably 10 o'clock in the morning I should say; might have been a little later.

Q. How long did you remain there?

A. We remained in that position—I should say it was half past 4 when we were called to attention and right-about-face, and moved out from that position, left in front, upon the same road that we moved down on in the morning. I don't know the distance, but we had been marching some time.

Q. Back toward Manassas Junction?

A. Yes; toward Manassas Junction—when an officer came riding from the Manassas Junction way, having a dispatch, and rode up to General Porter, and handed him the dispatch. Then we were commanded to halt; we did. General Porter dismounted, and sat down by the side of the road and leaned his back against a tree—quite a large tree—and read the dispatch, and went up and remounted and called us to attention and right-about-face. We marched back upon the same road we had come on, moving then right in front, until we came near the position of the road where we had moved into the woods on the right in the morning. We then moved out to the left, into an open field. The artillery was brought into the field, and parked in our front. We were formed in line, and ordered to stack arms; we did so. Orders were received that there should be no fires made to make any coffee; that we were to remain perfectly quiet. The adjutant received orders that if there were any orders received during the night he should deliver those orders to the commander of each regiment in person, so there should be no loud words spoken; and we were to remain. Me and some of my comrades spread our blankets and were preparing to lie down for the night. As we sat down, before we got ready to lie down, we heard upon our right a shout which we knew was a charge—from the shout; then we heard musketry discharges.

Q. What did you understand at that time?

A. I felt at that time that we were expected to charge on the rear and flank in conjunction with what was going on in front.

Q. About what time of the day, in reference to sunset, was it that you were halted on your way back to Manassas Junction, and that an officer came up with a dispatch?

A. I should judge from the position of the sun it must have been somewhere from 5 to half past 5 o'clock.

Q. During the day did you hear any indications of a battle going on; if so, what were they, and where were they?

A. In our immediate front we heard an occasional discharge of musketry, and, in fact, there were pieces of railroad iron fired from a rebel battery right over our right, and two pieces lodged in the rear of where I lay, probably forty feet in our rear. Some of the boys went and dug them up, and one of them was eighteen inches in length, the other was about fifteen. We thought of bringing them home, but they were rather heavy, so we left them on the field. Then, while we were laying there, beside that we heard, upon our right, distant firing all day, but not continuous; there were intervals that we could hear artillery distinctly.

Q. On the 27th of August where were you?

A. We were moving on the Warrenton road toward Bristoe Station. I should think that we were encamped on that night some six to eight miles from Bristoe Station. We went in before sundown; probably the sun was an hour or an hour and a half high when we halted there.

Q. When did you move from there?

A. I was corporal of the guard that night, and was ordered to wake the men at 1 o'clock, which I did, and we were formed and moved out from our camp immediately after 1 o'clock.

#### TESTIMONY OF LEWIS B. CARRICO.

Lewis B. Carrico, who resides on the battle-ground, called by Government, testified as follows (board's record, page 982):

Q. Where do you reside?

A. Prince William County, Virginia.

- Q. Where did you reside on the 29th of August, 1862?  
 A. Where I now reside, very near the Manassas Gap Railroad.  
 Q. Were you there on that day?  
 A. I was.  
 Q. Up to what hour in the day did you remain there?  
 A. I was there until very late Friday evening.  
 Q. During that day did you see any confederate forces? If so, where?  
 A. I saw some cavalry scouts during that day, and in the evening there was a battery firing some seventy-five or eighty yards back of my house, just west of my house, and an officer came there and told me I was in danger, and to take my family and go back of the line.  
 Q. Where did you go then?  
 A. I went up the road about a mile, to a farm owned now by Major Nutt.  
 Q. Towards Gainesville?  
 A. Between there and Gainesville.  
 Q. Did you meet any confederate force on that trip? If so, about where?  
 A. I saw them a little beyond Hampton Cole's, a very small number. They were sitting down on the side of the railroad, and their battery, that was planted at the back of my house; that opened upon the Federal troops directly after I passed it; and when I got up there against them, they got up and took shelter on the embankment of the railroad.  
 Q. Did you at that time see any troops to the south of the railroad?  
 A. None at all, except a little picket force that was a little to the south of the railroad, just above there; a small picket force.  
 Q. Did any confederate force pass to the east of your house during the day?  
 If so, in what direction did they go?  
 A. I saw none pass to the eastward. I saw some shelling from the back of what is called the Britt farm, and a disabled Federal wagon at the mouth of a lane called Compton's lane.  
 Q. About what time in the day was that?  
 A. I could hardly say; 12 or 1 o'clock.  
 \* \* \* \* \*  
 Q. What do you mean by the expression "evening?"  
 A. I mean something like 3 or 4 o'clock; somewhere thereabouts.  
 Q. How do you fix the time?  
 A. I fix the time by having to leave home, and having to go the small distance I did go.  
 \* \* \* \* \*  
 Q. What room did you stay in?  
 A. I was all over the house; very often upstairs, looking out of the window.  
 Q. Which way?  
 A. Toward Dawkin's Branch.  
 Q. What time was the cannon posted there?  
 A. Possibly 4 o'clock.  
 Q. You are positive about that?  
 A. I am not positive; but according to the best of my judgment it was probably as late as 4.  
 Q. Was it earlier or later than 4?  
 A. It was not earlier, I do not think; not earlier than 3, I am very sure.  
 \* \* \* \* \*  
 Q. Were there any soldiers of any description about your house, except the battery?  
 A. On Friday there was a Federal force in Mr. Lewis's field, to the east of my house.  
 Q. Where was Lewis's field?  
 A. Within three hundred or four hundred yards to the east of my house.  
 Q. Were there any about your house?  
 A. Yes; there were some of the Federal forces; two men that I had had some acquaintance with, who were in my house when this wagon was disabled at the end of Compton's lane.  
 \* \* \* \* \*  
 Q. About where is the place where you carried your family?  
 A. Immediately at the Manassas Railroad, one mile past Hampton Cole's.  
 Q. You say you did not meet any considerable body of the confederate force on your way there?  
 A. Yes, I do say it; and I saw no considerable body there, as I stated to you and General Porter, if he was with you, until I got home next morning, about sun-up. They came there to my house and destroyed a great deal.

## B. S. WHITE'S TESTIMONY.

B. S. White, on August 27, 1862, held the position of major in the assistant inspector-general's department of the confederate Maj. Gen. J. E. B. Stuart's staff (board's record, page 983):

Q. That morning, after Major Patrick had those orders to charge, what did you do?

- A. The enemy were driven away.  
 Q. Then what was the next event that transpired?  
 A. We moved off across the country to find out what had become of Longstreet's corps. We moved off in this way toward Thoroughfare Gap.  
 Q. Did you find General Longstreet's column or corps advancing?  
 A. We did, between Haymarket and Gainesville.  
 Q. What did General Stuart then do?  
 A. General Stuart then threw his command on Longstreet's right and moved down with his right flank in the direction of Bristoe to Manassas Junction.  
 Q. What did you then observe?  
 A. We took the road leading directly down the Manassas Gap Railroad; there is a road running parallel with it.  
 Q. How far down did you go?  
 A. General Stuart threw his command on the right of Longstreet, and passed down the Manassas Gap Railroad to about that point [west of Hampton Cole's; point marked "W"].  
 Q. Then what did you do?  
 A. We discovered a column in our front—discovered a force in our front coming from the direction of Manassas Junction to Bristoe.  
 Q. What sort of a point was that where you discovered this column coming, so far as observation is concerned?  
 A. It was a good point for observation; a high position, elevated ground. We could see Thoroughfare Gap and Gainesville and all the surrounding country.  
 Q. When you got back to General Stuart, where was he?  
 A. Where I left him, on that hill.  
 Q. At that time where was General Longstreet's command?  
 A. They had come down and were forming *here*. [Witness indicates a point back westerly of Pageland lane.]  
 Q. About what time of day was it that this affair occurred at Sudley Springs; before you and General Stuart started to cross the country toward Thoroughfare Gap?  
 A. Early in the morning.  
 Q. At what would you fix the time?  
 A. I suppose 8 or 9 o'clock in the morning.  
 Q. Did you remain at this point with General Stuart after you got back on this hill?  
 A. I did.  
 Q. What became of this column of troops that you saw advancing?  
 A. I don't know what became of them; they disappeared from our front.  
 Q. Do you know of any other position being taken up by General Longstreet's command during the day in advance of the position that you have indicated? If so, when and where? You indicated a position back of Pageland lane.  
 A. I do not.  
 Q. How long were you down in the neighborhood of this hill which you have marked with a cross during that day; up to what time?  
 A. We were down there the greater part of the day; we were on the extreme right all the time afterward. The cavalry remained on the extreme right until the morning of the 30th.  
 Q. What time do you think you met General Longstreet between Haymarket and Gainesville?  
 A. It was about 11 o'clock.  
 Q. Was General Longstreet at the head of his column?  
 A. He was near the head of the column.  
 Q. Were there many troops in front of his command?  
 A. Not many.  
 Q. Were they advancing?  
 A. They were.  
 Q. Rapidly?  
 A. They were marching at an ordinary pace.  
 Q. State the style of march; how many front?  
 A. They were marching in column.  
 Q. How many front?  
 A. Marching in column of regiments, perhaps four abreast.  
 Q. Were they in close order?  
 A. Yes, sir.  
 Q. Would you swear it was 11 o'clock?  
 A. It was about 11 o'clock.  
 Q. You are confident that none of Longstreet's forces had passed through Gainesville before 11 o'clock?  
 A. I don't think they had.  
 Q. How did they appear to you; to be on top of a hill, or in a depression, or in woods, or by woods, or in an open field?  
 A. The position we occupied was a commanding one, of course. They were in a depressed situation from the position we occupied. We were on this hill and there were *here*. [Witness indicates.]

- Q. In column, marching along the Manassas Gap Railroad?
- A. Yes, sir.
- Q. Did you see the Manassas Gap Railroad right in their vicinity?
- A. The road they were marching on was parallel to the Manassas Gap Railroad.
- Q. When you came back to that position did you see any Federal troops anywhere?
- A. Yes. There were Federal troops off here. [Indicating the lines of the regiments.]
- Q. When you came back did you see Longstreet's command?
- A. I saw Longstreet's command on my way back from General Stuart; they came and formed in here. [Pageland lane.]
- Q. Did you remain in that position all day?
- A. We were there most all day. Do you mean me individually?
- Q. Yes.
- A. No. I was backward and forward several times during the day. I went with messages from Stuart to Lee and Longstreet and to Jackson.
- Q. Then during that whole day you were in the vicinity of Longstreet's troops and knew of their position?
- A. Yes; we were on his right.
- Q. What time do you put it that you came back from General Jackson after being sent over by General Stuart?
- A. Half past 2 or 3 o'clock.
- Q. Do you know of any action that occurred along the Warrenton pike—in-fantry?
- A. I heard firing.
- Q. What time was that?
- A. In the evening.
- Q. About what time?
- A. General Jackson's command was engaged all the time.
- Q. Was Hood's command engaged at all?
- A. That evening they were.
- Q. What time that evening?
- A. I suppose about 3 o'clock in the evening they were engaged; 2½ to 3 o'clock.
- Q. Were they engaged vigorously?
- A. Quite a severe fight.
- Q. Describe the action so far as you observed it?
- A. I was not present. I didn't see it. I heard the firing; it lasted, I suppose, half to three-quarters of an hour.
- Q. Was it very vigorous?
- A. It was a very sharp fight.
- Q. Was that the only occasion in which Hood's command was engaged that day to your knowledge?
- A. To my knowledge that is the only one until next morning.
- Q. You say it was 3 o'clock?
- A. Between 2 and 3 o'clock. It may have been after 3. It was after he had got in position.
- Q. How long after he got in position?
- A. He got in position, I suppose, about 12 or 1 o'clock. This engagement took place about 2½, or may be 3 or 3½.
- Q. Was it as late as 5?
- A. I can't recollect. I don't think it was.
- Q. What is your recollection about the time that that engagement took place upon the Warrenton turnpike by Hood's troops?
- A. I was away on the right. Of course there was fighting on the line. I don't know what troops were engaged, but I know that Hood's troops had a fight there that evening. I don't know whether it was 3 or 3½; it may have been 5 o'clock. I know they had a sharp fight there, and I heard it.
- Q. Assuming Hood's division to be in the place you have indicated by W<sup>2</sup>, and suppose there had been a battery placed on this rise of ground marked C, would that have fulfilled what you understood was the position of a battery firing off in the direction of "W<sup>2</sup>?"
- A. Yes. Just beyond a small branch there was a hill, a very fine position for artillery, and it was firing off in the direction of "W<sup>2</sup>." The highest ground of that hill is where that battery was placed, or rather a park of artillery; nineteen or twenty of our guns were in that position.
- Q. Suppose that the column of troops that you saw on that morning, or on the noon of Friday, August 29, had been coming up the dirt road from Manassas Junction to Gainesville and was in the neighborhood of Dawkin's Run, would that have been the position of the column that you saw according to the map?
- (Objected to as leading.)
- A. The troops we saw approaching came more from the direction of Bristoe than from Manassas.
- Q. Therefore, what road indicated on this map best fulfills the direction from which you saw those troops coming?
- (Objected to as leading.)

A. They were approaching more in the direction from Bristoe than from Manassas.

Q. Therefore, what road best of the roads you see on this map shows the direction from which you saw those troops coming? [Map explained to the witness.] Now, where were the Federal troops?

A. I remarked a while ago that the column that was advancing advanced more from the direction of Bristoe than Manassas.

Q. Here is Bristoe and there is Manassas. Now, where do you put it, what direction? Make a line indicating the direction.

A. They must have come in here or in here.

Q. Then you are not positive that you saw them on the Manassas Gap Railroad?

A. I never said I saw the Manassas Gap Railroad. I said I saw them on the road running parallel with the Manassas Gap Railroad. They were not marching on the railroad. They were marching on a road that I supposed, from the position I occupied, was a line parallel with the Manassas Gap Railroad; they may have been on this road [from Gainesville to Stuart's Hill] and took position there [at +]. From that position we saw the columns coming up, but they were not on the railroad.

Q. Did you see the railroad in conjunction with seeing them, or at the same time in connection with seeing them?

A. I could not say. I was not looking for railroads. I was looking for troops. I don't recollect now whether I saw the railroad or not, because my attention was directed to more important matters.

Q. Would you swear that those troops, Bristoe being here and Manassas there—that those troops were not on this road to Milford?

A. No; they were not in that direction at all. They were off here [witness indicates in the direction of the Manassas and Gainesville dirt road].

Q. Had you been to Bristoe that day?

A. No, sir; we had been there the day before.

Q. How do you know where Bristoe was?

A. Because I have been there a thousand times since.

Q. Could you see it from that position?

A. I don't know that you could see the station, but I knew the general direction and had been all over that country time and again.

Q. Did you see any of the shot fired fall near that column?

A. Yes, sir.

Q. What did the column do?

A. The column seemed to retire.

Q. Did you see them retire?

A. Yes; I saw them give back.

Q. How did they retire?

A. You know how troops retire. They gave back into a piece of woods; and just at that time I went off with a message, as I stated before—went off with a message to General Jackson from General Stuart.

By Mr. MALBY:

Q. You say that the artillery were stationed on the right of Jackson at the highest point on the ridge. Now, did Longstreet's line bend back from the line of Jackson, or did they make an angle more nearly approaching right angles?

A. I had nothing to do with Longstreet's position.

Q. But you saw it?

A. I passed in his rear several times.

Q. Take a pencil and mark Longstreet's line.

A. There was an angle formed between Jackson and Longstreet's line; Jackson's line ran along here. [Witness indicates.]

Q. Draw it in pencil. There is the Independent line of the Manassas Gap Railroad. [Indicated to the witness.]

A. Jackson's artillery was posted on this stony ridge.

Q. Draw a line where the nineteen or twenty guns were posted.

A. I had no connection with Longstreet's command or Jackson's. I passed in the rear of both lines several times with messages. I did not inspect their lines. I just speak from general recollection of their lines.

Q. Then you do not recollect precisely where any one line was?

A. I do; yes. I have indicated there is Jackson's line; his artillery was posted on this range of hills; General Longstreet formed here. [Witness indicates the different positions.] Their lines did not join; there was an angle there, an opening, and there is where the battery of artillery was.

Q. Draw Jackson's line and the cannon of Longstreet.

A. I have indicated it. [Witness indicates the line of the Independent line of the Manassas Gap Railroad.] His line did not go down that far [indicating Sudley church]; it went to about there.

Q. Where do you run Jackson's line?

A. Jackson's line ran about in this direction. [Marked with a pencil.] That is about the direction of Jackson's line.



(The line indicated by the witness by means of a pencil is followed in ink by the recorder.)

Q. Where were these eighteen or twenty guns of Jackson's?  
A. That did not have reference to Jackson's command; Jackson's artillery was posted on this range of hills back of his line of battle. This park of artillery is where W<sup>3</sup> is and W<sup>6</sup>.

Q. You still say that Hood occupied that position, and that his right was where + and + + are?

A. There is where Hood was; right there.

#### REV. JOHN LANDSTREET'S EVIDENCE.

The evidence of Rev. John Landstreet (board's record, 996). He was a minister, called in both armies a chaplain; he was a chaplain in the confederate service belonging to this cavalry command. His residence is in Baltimore County, Maryland:

Q. What did you do or see there which has impressed itself upon your attention?

A. There was considerable dust in this direction [witness indicates] indicating a body of troops; there was considerable down in this direction some where. At any rate, General Stuart ordered some of the Fifth Cavalry to go out and cut brush and drag it along the road.

Q. (By Mr. MALTBY.) Did you hear the order?

A. Yes; to drag the brush along the Gainesville road, so as to serve as a feint and to convey the impression that there was a force coming down the Gainesville road. It was given, I distinctly recollect, to a member of the Fifth Virginia Cavalry.

Q. Who was the colonel of that regiment?

A. T. L. Rosser. We frequently after that conversed about it.

Q. What was done after that while you were in the neighborhood of Hampton Cole's?

A. There was some firing from this position [+<sup>2</sup>], in the direction of this approaching force; and from my recollection of it the force was a considerable distance down. If three inches indicate a mile here, and if it was a life and death case, I would say that it was inside of a mile that they were off.

Q. You should say it was a distance of about a mile?

A. I should say it was inside of a mile. It was not beyond a mile, certainly. [Witness indicates from Hampton Cole's.] There were several shots fired from this point in the direction down there.

Q. In what direction?

A. That depends entirely upon where the man was standing at the time, and what he was looking at. I did not charge my mind much with this Manassas Gap Railroad, though I knew it very well. But I would not say whether it was here or there [whether right or left]. It was pretty much in line with this railroad [Manassas Gap Railroad].

Q. What became of this column of troops upon those shots being fired?

A. I did not see them.

Q. They disappeared from your sight?

A. Yes, sir.

Q. Did they remain in the position they were in when they were fired upon?

A. No, sir. When my attention was directed to them they were where I could see the column, or a considerable portion of it; and they were marching in good order, close column.

Q. Do you recollect how many shots were fired at them?

A. I do not; but I am positive I didn't hear half a dozen; I know I did not.

Q. How long did you remain in that position in the neighborhood of Hampton Cole's that day?

A. I was sent off after that to hunt up the First Virginia Cavalry, not very far from there at that time; and I paid very little attention, indeed, from that time. When Longstreet came and formed there, General Jackson being in position, I came out from the command, and I was not in any of the fight at all except in the cavalry movements—skirmishing.

Q. Where did General Longstreet form his command?

A. It seems to me I struck a portion of Hood's command on General Longstreet's left before I got anywhere in the direction of Longstreet's right. They seemed to come in a good ways in the direction of General Longstreet's left, if they were not immediately on his flank.

Q. About where would you put them, north of the pike, across the pike, or south of the pike?

A. Which?

Q. Hood's division of that command?

A. From my recollection, there was a portion of Longstreet's command that crossed the Manassas Gap Railroad [the witness marks a point with a pen]; crossed it, am sure, some distance, but how far I don't know. I do not think it was far. It extended, I think, up in this way. Hood's was in front of it; part

of it in the body of the woods. My impression is that Hood came in a little in advance of Longstreet's left. I am certain that I came to Hood before I came to Longstreet's force in position. [Marked "Longstreet" and "Hood."]

Q. What time of day was that that they were all in position? \* \* \*

A. It is my recollection that it was somewhere between 2 and 3 o'clock.

Q. Do you know whether or not either Hood or the remainder of Longstreet's command were in advance to the east of Pageland lane at any time that day?

A. I do not.

Q. Was your position such that you could see the location of Hood and Longstreet during the afternoon?

A. Oh, yes; I could go where I pleased.

Q. How long did this action of that day continue?

A. The firing, to my recollection, continued up to about dark. It was near dusk. At times it was heavier than at others; and at times severer than I ever heard it in any engagement.

Q. What were your opportunities during that day of knowing the fact, provided General Hood had advanced east of Pageland lane? [Points of compass upon the map explained to the witness.]

A. My answer is, that if I had a desire to know it, I could have known it very easily; but I didn't think about it at all. It was not in my mind. I was well acquainted with Hood and his command, and that made the impression upon me in coming to this point. I came from the direction where Jackson's command was, and passed this heavy battery at the time, though I think there were a few more guns there than I have heard stated to-day.

Q. In which direction, as you stood at Hampton Cole's facing the enemy, was Longstreet's command from you, with reference to your own person—to the left, right, front, or rear?

A. Looking down in the direction from which the enemy were coming, a portion of it was in my rear and a portion of it was not.

Q. At the time you arrived there at Hampton Cole's?

A. No, sir. They did not get in this position at the time I arrived at Hampton Cole's. I arrived at Hampton Cole's about 10 or 11 in the morning.

Q. Where were the guns stationed in reference to Hampton Cole's?

A. The guns were pointed down a little to the left of the railroad.

Q. How near were you to the guns?

A. Right up by them.

Q. How much of that column did you see?

A. I could not say how many regiments there were. The column indicated that it was the head of a considerable body of men.

Q. What was that indication?

A. They were marching in close column.

Q. Would not a regiment march in close column?

A. Might not in as close column as that, and in good order. My judgment in the matter was that it was the advance of a large army.

Q. Did you see a quarter of a mile of that column?

A. No, sir.

Q. An eighth of a mile?

A. That is somewhere near it.

Q. Was it marching upon a plain?

A. I can not tell you that. It did not appear to me as if they were coming up a hill, nor as if they were coming down a hill.

Q. As if they were marching upon a plain?

A. It looked pretty much as if they were on a level.

Q. Can you state whether any bushes were to their right or left, or trees?

A. No; I could not. My impression is that the country was pretty well open left and right of where I first saw them.

Q. Did you see them in flank at all?

A. No, sir.

Q. I don't know whether it is a military expression or not.

A. Do you mean did I see the rear of the enemy?

Q. No, sir; I mean the side of the column as it advanced.

A. No, sir; it was the shortest space of time before the firing commenced here at Hampton Cole's before I saw them no more.

Q. Was this column to your right or left?

A. From the position I was in, it was almost directly in my front. I think if I had advanced in a straight line I would have come up face to face with them. I was a little to the right of Hampton Cole's and looking right straight down.

Q. Did you see troops in the neighborhood of the Leachman house?

A. I knew there were troops there, but how I knew it I am not now prepared to say.

Q. How did they appear? Did they march out of sight in the rear, or did they retire in the bushes?

A. If you will let me use an illustration: It was a very common thing for a column of cavalry to advance, and one shot into a column of cavalry would make them disappear in the woods, and that was the end of it. I never saw a column that got out of sight quicker than this column did.

- Q. How long did you remain at Hampton Cole's?
- A. I suppose I staid there until—well, it was just after the brush expedition; shortly after that; and I went in the direction of Gainesville from there. I don't know but what I went right across to Gainesville; I think I did.
- Q. How did you go?
- A. I struck out on this Gainesville road that I had traveled hundreds of times towards Gainesville; pretty much along the line of the railroad.
- Q. How long did you say that it was that you were at Hampton Cole's?
- A. I said I was there until after 12 o'clock.
- Q. Were you there about an hour in all?
- A. I was there more than an hour; I was there fully an hour and a half.
- Q. You passed along the Manassas Gap Railroad?
- A. I passed along the Gainesville turnpike.
- Q. What did you see on your route in the shape of troops?
- A. I met some of, I think, Longstreet's forces on the Warrenton pike.
- Q. Did you see any of Longstreet's troops?
- A. I have no recollection of seeing them.
- Q. Were there any troops marching on that turnpike?
- A. There may have been. I did not pay any attention to it.
- Q. How long did you stay away in the direction of Gainesville?
- A. I staid away until about 3 or half past 3 o'clock, I think.
- Q. Then what did you do?
- A. Then I returned to the First Regiment of Virginia Cavalry.
- Q. Where was that?
- A. If my recollection serves, it was between Hampton Cole's and Sudley.
- Q. Was that the detachment that had been sent off to drag brush there that day?
- A. No, sir. That was the Fifth Virginia Cavalry, commanded by Colonel Rosser.
- Q. When did you first see the place where Longstreet's line was formed after you went off towards Gainesville?
- A. I saw it for the first time a little after 3 o'clock.
- Q. Was it then formed?
- A. Yes; it was then formed in good order.
- Q. All along the whole line?
- A. Well, I did not ride along the whole line.
- Q. Where were you?
- A. I could not tell you how it was along the whole line. I rode in along here and I passed on out here. I passed around on Longstreet's left, and I found Hood's division in front of Longstreet, and rather extending beyond his left. [Witness indicates near Pageland lane.]
- Q. Then what did you strike?
- A. I didn't know what the name of the road was. I made for Sudley neighborhood, and there I met a portion of the First Virginia.
- Q. On Hood's left or Longstreet's left did you find artillery?
- A. Yes, sir.
- Q. Did Hood's line extend quite up to the artillery?
- A. No, sir; it did not. *There was a gap.*
- Q. How much of a gap?
- A. I don't recollect how much it was, but it was a considerable gap.
- Q. Half a mile?
- A. I don't know whether it was that much, but it was a considerable gap, a considerable elevation.
- Q. Do you know where that artillery was in reference to the Browner or Douglas house?
- A. No, sir; I know nothing about houses there.
- Q. Were the batteries in advance of Hood's line?
- A. Well, rather.
- Q. Much?
- A. No, sir; they were rather a little in advance of his left.
- Q. Was the distance between Hood's left and the right of the artillery as great as the gap?
- A. According to my recollection, the battery was pretty nearly in the center of the gap.
- Q. Did the line of the battery run in the same direction that Hood's line ran, or did Hood's line form an angle with the battery?
- A. It was at an angle.
- Q. Was the right of the battery much in advance of Hood's left?
- A. No, sir; it was not much in advance, but still it was in advance.
- Q. Was it a half mile in advance?
- A. Oh, no.
- Q. Was it a quarter of a mile?
- A. No, sir; I don't think it was that.
- Q. Or an eighth?
- A. I don't think it was that. It was a very short distance in advance. I would not say positively that it was in advance at all.
- \* \* \*

Q. About what time of day did you first see Longstreet's troops in position after that?

A. I saw them in position, I think, somewhere about 3 o'clock, or a little after 3, or a little before 3.

GENERAL ROBERT C. SCHENCK'S TESTIMONY.

Robert C. Schenck, called by the recorder, and examined in the city of Baltimore, October 22, 1878 (present, the recorder, and Mr. Maltby, of counsel for the petitioner), being duly sworn, testified as follows:

Q. Where do you reside?

A. Dayton, Ohio; temporarily residing in Washington, D. C.

Q. What rank and command did you hold in the military service of the United States on the 29th August, 1862?

A. Brigadier-general of volunteers, commanding the first division, Sigel's corps.

Q. Finally you left the service with what rank?

A. Major-general. I was promoted to take effect August 30, 1862.

Q. In moving up to this position, did you have, in the morning of the 29th August, any enemy in front of you?

A. None that we felt. Throwing forward skirmishers and supposing the enemy was present somewhere, pretty early in the day a force of the enemy was developed upon this ridge where there were a number of batteries placed to our right; that would be to the north of the turnpike road.

Q. Do you recollect passing that lane, Lewis lane No. 1?

A. I have a very indistinct impression of it. I have a remembrance floating in my mind having crossed some road which was not the turnpike, but I don't recall it distinctly.

Q. At what time of the day did you reach your farthest point in advance?

A. I think it must have been somewhere about the middle of the day; perhaps a little earlier than the middle of the day.

Q. Did you see General Reynolds's divisions during that day?

A. No; but I understood he was off on my left.

Q. Did you see General Reynolds himself during the morning or afternoon?

A. No; I think not. I don't recollect.

Q. How far did you get beyond the Gibbon wood, in which the wounded of the night before were?

A. I don't know that we got beyond the Gibbon wood. My remembrance is that the farthest point we reached was somewhere about the west edge of the Gibbon wood—that is, the wood in which Gibbon's troops were engaged the night before. We found there his wounded and the evidence of the battle that had taken place.

Q. Was anything done with these wounded that you found there?

A. I ordered all the men in that and the piece of woods this side of that, where there were, I think, a few scattered, to be sent to the rear and taken care of. I don't know that that is the Gibbon wood; I mean the wood farthest in advance that I reached was the wood in which the engagement took place. My impression is we did not at any period go farther in that direction than to perhaps the west edge of that wood.

Q. Look at the map. Which piece of timber is it that you consider to be the Gibbon wood?

A. *This* I suppose to be the wood. [In which the word "Warrenton" ends; marked "S" on the Landstreet map.] That, I suppose, is intended for the wood in which Gibbon's engagement took place.

Q. How long did your division remain in that woods?

A. We must have been in that wood, altogether, two or three hours.

Q. Did you see any battery of the enemy while you were in that position? If so, where was it?

A. There was a battery off to our right somewhere which I recollect all the more distinctly because it seemed to me to be detached from the general line of the enemy, and I conceived the purpose of attempting to capture it, and sent one of my staff over to reconnoiter with a view to see how it might be approached. But about that time Milroy, who was engaged with the enemy off to my right, communicated with me, or General Sigel for him—I think the message came from Milroy himself—begging assistance, and I detached Stahel's brigade to support Milroy northeast of the pike, and then gave up the idea of attempting to capture that battery.

Q. That battery was in the neighborhood of where?

A. It was on a hill on my right; to the right of the wood where Gibbon's fight had taken place. It was upon elevated ground, and seemed to be the spur of a hill. I thought we might by a sudden and decisive movement upon it capture it.

Q. While you were up in this position McLean's brigade, I understand, was on the left. What was the position of Reynolds's division of Pennsylvania Reserves as reported to you at that time in reference to your own position?

A. I did not see them, but they were reported to me as being upon our left, and

I may add that it was reported to me that they had stationed a battery somewhere in advance of Gibbon's wood, I think Cooper's battery.

Q. In which direction was that battery operating?

A. I did not see the battery.

Q. At what time did you quit with your division this Gibbon wood?

A. I should think, to the best of my recollection, somewhere between 1 and 8 o'clock. I don't think I can be more positive than that. My recollection is that it was some time after noon.

Q. To what point did you go then with your division?

A. In consequence of reports made to me in reference to the movements of General Reynolds I thought it best for me to fall back, and I came into a strip of woods which I supposed to be these [south of the syllable "ville" in "Gainesville"]. I formed in line of battle near the west edge of that woods. There we lay most of the afternoon.

Q. Up to what time?

A. I can scarcely tell you. I should think at least until the middle of the afternoon, perhaps later. I recollect withdrawing from that point from wood to wood as we had advanced. We found it quite late in the afternoon, or quite sunset, by the time I reached my original position. The whole distance, I should think, was about two miles from the point where we started in the morning to the furthest point to which we advanced.

Q. While you were in the Gibbon wood, what enemy, if any, did you see in your immediate front?

A. I can not say that I saw any enemy in our immediate front. There were skirmishers in that direction, and as my skirmishers were thrown forward we would have an occasional shot, but there seemed to me at that time to be no enemy in my front, in my immediate front. The first intimation that I had that the enemy in considerable force were upon our left was through Colonel McLean, the commander of my second brigade, who told me that a messenger, or staff officer, or orderly, or some one from Reynolds, apparently with authority, had come to him, as he was in command of a brigade, and communicated the fact that the enemy were upon our left, and I think was coupled with the information that Reynolds intended to fall back. I tried to communicate with Reynolds again, but did not succeed, but I thought there was no occasion for immediately falling back; but not finding any response from General Reynolds, I concluded to withdraw slowly to at least a short distance and then come across an open space into the next wood (into a little strip marked S<sup>2</sup>), where I rested the troops in line.

Q. While you were holding position in that little strip of woods do you know whether or not the enemy obtained the possession of the Gibbon wood?

A. I am satisfied that they were not there in any force; they had their skirmishers thrown forward as I had men toward the Gibbon wood, and there were occasional shots fired with or without good cause for them, but there was no movement in force, nor was there indicated to me any presence of an enemy in force.

Q. Can you fix with any degree of relative certainty the time in the afternoon when you quit the little fringe of woods marked "S<sup>2</sup>"; whether it was 2, or 3, or 4, or 5, or 6 o'clock?

A. The days in August are pretty long. I should say it was at least the middle of the afternoon, or probably later. I reached my conclusion from measuring it by the movement forward and the gradual withdrawal of the troops. I should think it was after the middle of the afternoon.

#### TESTIMONY OF GENERAL S. D. STURGIS.

General S. D. Sturgis testifies that he moved on the Gainesville road August 29, 1862, with his command. (Board record, page 711.)

Q. You say you went a mile and a half beyond Bethlehem Church toward Gainesville?

A. That is my recollection.

Q. What did you then do?

A. I reported to General Porter. I rode in advance of my brigade. I found troops occupying the road, and I got up as near as I could get and then halted my command, and then rode forward to tell General Porter that they were there. He said, "For the present let them lie there."

Q. What did you do then individually?

A. Well, I simply looked about to see what I could see. I was a stranger to the lay of the land, and the troops, and all that; so without getting off my horse I rode about from place to place watching the skirmishers, and among other things I took a glass and looked in the direction of the woods; about a mile beyond which seemed to be the object of attention—beyond the skirmishers; there I saw a glint of light on a gun; and I remarked to General Porter that I thought they were probably putting a battery in position at that place, for I thought I had seen a gun.

Q. State what the conversation was.

A. I reported this fact of what I had seen to the general; he thought I was mis-

taken about it, but I was not mistaken, because it opened in a moment—at least a few shots were fired from that place—four, as I recollect.

Q. What force of the enemy did you see in that direction at that time?

A. I didn't see any of the enemy at all.

Q. Then what did you do?

A. Then when they had fired, as near as I can recollect, about four shots from this place, General Porter beckoned to me; I rode up to him and he directed me to take my command to Manassas Junction, and take up a defensive position, inasmuch as the firing seemed to be receding on our right.

Q. What firing do you mean?

A. I mean the cannonading that had been going on for some time on our right, probably in the direction of Groveton.

Q. How long had you heard that cannonading?

A. I don't recollect exactly where I heard it first. My impression has been that I heard it all along the march from Manassas to General Porter's position. I do not recollect distinctly that I did hear it, but I know I heard it all the time after I arrived there until I left.

Q. What time of day was this that you received the order to move back with your command to Manassas Junction?

A. I have no way of fixing the time of day. I have carried in my mind the impression that it was more about the middle of the day—about 1 o'clock.

Q. What did you do when you received that order?

A. I sent word to General Piatt to move back to Manassas Junction, and that I would join him there.

Q. Do you know whether your order was obeyed?

A. Yes; it was obeyed.

#### EVIDENCE OF MARK J. BUNNELL.

Mark J. Bunnell, on page 678 of the board record, says:

I called to an orderly and stated to him what I wanted. He called Colonel Marshall, and they came down within a few paces of where I was, and Colonel Marshall then received his orders to deploy his regiment as skirmishers in front.

Q. Did you hear the order?

A. I stood right there so I could hear.

Q. What were the orders that General Porter gave Colonel Marshall.

A. I could not hear all the conversation, but to deploy his regiment as skirmishers, as we were about ready to move out; not to bring on a general engagement, but the idea was that we had to do duty only as skirmishers.

#### CAPT. A. P. MARTIN'S TESTIMONY.

Capt. A. P. Martin, commanding the artillery of Morell's division on the 29th of August, swears as follows:

##### Examination by the Court:

Q. Do you know of any order having been given by General Porter to make an attack upon the enemy during that day?

A. I did not. I received orders from him to put the batteries in position.

Q. How long did the artillery firing continue?

A. The firing of the first section of the enemy's battery that opened from the woods in front continued perhaps twenty minutes; they fired very slowly. An hour later, perhaps, there was a battery opened further to our right, and they were engaged by Hazlett's battery of Morell's division.

Q. At what distance from each other were these batteries that were engaged?

A. I should think not over a thousand yards; it might have been a thousand or one thousand two hundred yards.

Q. Do you know whether any effect was produced on either side by this artillery fire?

A. They were in the woods, and we could not see, except that the first battery that was opened was silenced, I should think, in about twenty minutes or half an hour.

Q. Was there any loss on our side?

A. Yes, sir; one man was killed by the first shot that the enemy fired. I saw him fall.

Q. On which side of the Manassas Gap Railroad, north or south, were the enemy's batteries that you were then engaging?

A. They were on the side toward us—the south side, I suppose.

The examination of this witness was here closed.

#### J. J. COPPINGER SWORN.

J. J. Coppinger, called by the recorder, being duly sworn, testifies as follows:

##### Direct examination:

Q. State your rank and station.

A. Captain Twenty-third Infantry, and brevet colonel.

- Q. What rank did you hold in the month of August, 1862?
- A. Captain Fourteenth Infantry.
- Q. In whose brigade, division, and corps were you during that month?
- A. The first regular brigade, Sykes's division, Porter's corps.
- Q. Do you recollect being at Fredericksburg in that month?
- A. Yes; at or near Fredericksburg.
- Q. Where did you move to from there?
- A. We moved in a general direction toward Bealeton on the line of the railroad from Rappahannock Junction to Alexandria.
- Q. What sort of a march did you make in going up there to that point?
- A. The first afternoon we made a long march; we made good time. I could not give the distance in miles. The next morning we marched early a few miles, and to the best of my recollection countermarched, and were placed in line of battle at a short distance from the camp which we had left. After that our marches seemed rather spasmodic until we got to the railroad.
- Q. Near what point, or at what point?
- A. Until we got near Bealeton, on the railroad. I do not recollect whether we actually struck the track at Bealeton or Warrenton Junction, but we were near the railroad at Bealeton, and on it to Warrenton Junction.
- Q. Were you in Warrenton Junction on the 27th of August, 1862?
- A. On or about, but I can not swear to the date.
- Q. Then you left there to go to what point?
- A. March along the line of the railroad toward Manassas Junction.
- Q. Do you recollect at what time of day you left Warrenton Junction to go in the direction of Manassas Junction?
- A. I cannot. My watch, I think, was broken, and I was very badly wounded a few hours after; so I do not recollect. I cannot give you the hours.
- Q. You came to a halt for the night at what place?
- A. Near Bristoe Station.
- Q. At what time of day did you arrive at Bristoe Station?
- A. Early in the day; I cannot give the hour. The reason I say early in the day is that I recollect passing a good part of the evening with Smead, of the artillery, who was killed a few hours after.
- Q. The next morning you marched for what place?
- A. Manassas Junction.
- Q. From there, what direction did you take?
- A. Toward Gainesville.
- Q. Do you recollect a place named Bethlehem church?
- A. I have an indistinct recollection of a small church on the left of the road.
- Q. You went out on that road; do you recall any incident connected with that march out on the road toward Gainesville?
- A. Do you mean the passage of other troops?
- Q. You went out on that road; when did you receive a command to halt?
- A. When, I think, about two shots close to the edge of a wood—two shots, I think, were fired; just about that moment our command halted.
- Q. From what direction?
- A. Front and right.
- Q. Then what did your regiment and brigade do?
- A. Halted, and were ordered to face about.
- Q. Then what?
- A. We were marched to the rear in column of fours.
- Q. To what point?
- A. I can not give you the point; but the next point I recollect is being on a side road which leads off toward the battlefield of Bull Run. Perhaps it would be better if I were to say that my memory of that battlefield—I was left on the field between the lines, senseless, until the next day, and my memory of both those days is somewhat spasmodic. Some things I see as clearly as anybody I see in this room; and there are intervals of which I have a very poor recollection. Now, between the time of our being marched here and our being halted, I don't recollect. [Witness indicates points on the map.]
- Q. As to this point of fact—these shots being fired, and you countermarched to the rear—how soon after the shots were fired was the order for you to move to the rear?
- A. I think almost immediately.
- Q. Do you recall with any certainty how long or how far you marched to the rear?
- A. We marched quite a distance to the rear, I think from one to two miles, if not more; but I am almost certain that the command was "Halt; about face," and within three minutes I think, and perhaps a shorter time, we were in motion to the rear.
- Q. During that day did you move to the front again; if so, when?
- A. We were moved on a cross-road, which led us the next day to the battlefield. [Witness indicates in the direction of the Sudley Springs road.]
- Q. When did you say you made that move at the cross-road?
- A. I can not give the time.
- Q. Some time that day?

- A. In the afternoon.  
 Q. Did you encamp there, or did you go back again?  
 A. We passed the night there; stacked arms, and I think lay down by our arms.

Cross-examination by Mr. BULLITT:

- Q. You were then a captain?  
 A. Yes.  
 Q. Of what company?  
 A. Company A, second battalion, Fourteenth Infantry.  
 Q. Who was the commander of your regiment?  
 A. General Stone was the colonel. Our battalion was that day commanded by Captain McKibbin, who was wounded the next day. The senior officer on the ground was Captain O'Connor, who was also wounded the next day.  
 Q. What brigade?  
 A. The first regular brigade, temporarily commanded by Colonel Buchanan. The examination of this witness was here closed.

#### TESTIMONY OF CAPTAIN GECKE.

Captain Gecke testified as follows (board's record, page 668):

Right before me was a piece of wood and an open corn-field between me and the woods. I remained and deployed my skirmish line outside of the ditch there. At the same time when I came there I saw skirmishers, dismounted cavalry, marching before me in that corn-field. My men fired at them and they fired over to us. Then they went back into the woods and I gave the command to cease firing. Then the adjutant of the regiment came up between 4 and 5 o'clock with an order to the commanding officer of the skirmish line. I stepped up, and he said I should find out immediately what was going on in the corner of the woods; so I took a sergeant and a file of men and went up there; and the sergeant went ahead and looked in that direction, and then we came down and reported to the adjutant that the enemy has been marching out of the woods, and that they were moving cannon and ammunition-wagons to form their proper companies, and turning to the left. A little while after this I heard a few shots fired over in that direction.

Q. When you went out with the skirmishers and deployed your men, what orders did you have?

A. I had no special order except to see what was going on. I saw no line formed on the left; no line formed on the right.

Q. When did you first observe the enemy coming down on your front?

A. That was about 4 o'clock.

Q. Up to that time what indications were there of an enemy in your front?

A. I should say I saw a few of a skirmish line moving through the corn-field into the other side of the wood.

Q. During that day did you see any artillery firing?

A. I heard artillery firing.

Q. In what direction did you hear it?

A. The fire of artillery that forenoon I heard on the front of us; in the afternoon on our right.

Q. What was the character of that artillery firing that you heard?

A. It commenced at 5 o'clock in the morning; then it was in the far distance. Then about 11 or 12 o'clock we heard it better; we heard heavier firing. Then between 1 and 2 o'clock there was no firing whatever. Then from about 3 o'clock and afterward there was heavy artillery firing and musket firing up to most 9 o'clock at night and yelling by the enemy and cheering by the Union men. We heard that off on our right.

Q. Did you at any time during that afternoon undertake to feel the enemy and find out what their strength was?

A. No; I only carried out the order I had.

Q. About what time in the day would you say you moved across Dawkin's Branch to go forward with your skirmishers?

A. About 3 o'clock.

Q. Did you know the position of the enemy after you got up on the skirmish line?

A. No; I didn't see no other part of the troops except this dismounted cavalry.

Q. This yelling and cheering that you heard by the enemy and the Union troops—was that before or after you moved your skirmish line across Dawkin's Branch?

A. Afterward.

Q. How long after?

A. That commenced about 5 o'clock or half past 5, and kept on until darkness.

Q. The yelling and cheering that you heard was between 5 o'clock and sun-down?



The confederate General R. E. Lee's official report of that action says that the battle continued until 9 o'clock at night (board's record, page 520).

A. Up to 9 o'clock at night.

Q. Did you make any report of that to anybody?

A. No.

Q. Do you mean to say that you did not send any message to Colonel Marshall at all that day?

A. No; except this one, because I was not so far off from them. They could hear all these things going on themselves.

Q. Then you could hear, and he could hear?

A. He could hear the firing. It took me about ten minutes, more or less, to get there from my position back.

SERGT. FERDINAND MOHLE'S TESTIMONY.

Sergt. Ferdinand Mohle, Thirteenth New York Volunteers (board's record, page 676), a Government witness, has stated as follows as to his position to the front:

A. I think we staid as skirmishers up toward night, and then we were withdrawn on to a hill. It is kind of rolling country here. I think it was hollow along that way and then it raised again.

Q. What did you see while you were on the skirmish line so far as the enemy was concerned?

A. Saw a couple of rebel pickets in front of us.

Q. Infantry or cavalry?

A. I could not say exactly; I guess it was dismounted cavalry.

Q. What other indications of an enemy did you see during the day; what enemy did you see in front of you?

A. I saw no enemy where I stood. I have just said it was a kind of hollow place where we went through and we could not see many of the enemy except a line of pickets; they were not very active. We exchanged a couple of shots, and I recollect a couple of cannon shots flew right over our line and came, I guess, from our rear—our own men—two or three shots.

Q. Was there any cannonading going on then?

A. There was.

Q. Where was that?

A. That was to our right.

Q. What was the character of it?

A. It was heavier toward evening than the time we went up there. We heard the noise more in the evening—the noise of artillery and cheering—than when we first came up there. But still firing was going on.

Q. When did the enemy come down in force on your front that day where you were?

A. What do you mean by the enemy; the line of pickets?

Q. Yes, or heavy force; did you see any heavier force in front of you?

A. I could not see any heavy force; I could hear more. I could hear moving. I did not know whether it was artillery or cavalry, but I heard some words, some commands.

Q. How late in the day was that?

A. It was in the evening; toward night, I guess.

Q. When you went out there on that line did you hear those commands and movements?

A. I can not remember; I did not hear any command at that time; but there was a couple of shots exchanged between the pickets; and finally, I think, the rebel pickets went back a little, and word was brought to cease firing.

Q. Could you hear any musketry firing in the afternoon where you were, and infantry firing?

A. Yes, I could hear that.

Q. How long in the afternoon did you hear infantry firing.

A. I can not tell exactly when it commenced, but I could hear cannon firing when we were marching up there.

Q. After you got up there was there any cannon firing?

A. There was cannon firing at intervals; it ceased sometimes, and toward night it went on pretty heavy.

Q. Any musketry firing in the afternoon to your front or right?

A. I think there was musketry firing, but we could not hear it so plain as in the evening.

Q. About what time did you hear this cheering which you speak of?

A. About sunset.

CAPT. JOHN S. HATCH'S TESTIMONY.

Capt. John S. Hatch, First Michigan Volunteers, Martindale's brigade, Morell's division, a witness for the Government, testifies as fol-

lows (board record, page 600) as to what transpired at the front, near Dawkin's Branch, on the 29th August:

Q. Tell what you saw when you got there at that point.

A. When we turned off into the woods we were preparing to go into action, as I supposed. I think the pieces were loaded. Caps were let off the guns, and cartridges examined and cartridge-boxes, and some such things as that. We remained in the woods a little time, and then we moved off to an eminence where we could look off into the depression or ravine; and then the Thirteenth New York was thrown out as skirmishers.

Q. How long had this been after you had arrived at that point before the Thirteenth was thrown in?

A. It is my impression that we were loading pieces and preparing, as we supposed, to go into action. I recollect we were talking of it together; that it was about noon. I do not recollect looking at a watch. It was about 12 o'clock, I should say; not far from that any way.

Q. That the Thirteenth were thrown out?

A. Yes, sir.

Q. You remained there during the day?

A. Remained there all that day.

Q. After the Thirteenth were thrown out what did you see?

A. We came out of these woods, I guess, almost entirely, so that we could see the Thirteenth New York maneuver, and see the ravine and woods on beyond. I think our arms were stacked—our brigade. We lay there and saw the Thirteenth New York moving; they kept moving on until they met with some little check on the other side; there were some shots fired; then, sometime after that, a solid shot came over. General Porter was there with his staff. I do not know whether there were any other generals there or not. There was a little scattering there and a little commotion all around, until pretty soon another one came over, and there was a piece run out of the woods where the Thirteenth New York had met with some opposition from the infantry; there was another shot fired soon after that, and we supposed the work was commencing. There were three shots, I think, or four shots fired. We supposed that they were firing at General Porter and his staff, because they were mounted and conspicuous.

Q. Then what was done?

A. There was nothing done by us during that afternoon. We were lying there at ease until early in the evening, when our brigade, a portion of it—my regiment at least—was thrown out, you might say, as skirmishers. We were thrown out to guard against a surprise that night—thrown out to the right of where the New York Thirteenth went down.

Q. How long did you remain there?

A. Two hours; about that.

Q. What indications, if any, did you observe of the presence of the enemy during the day?

A. We saw fighting going on on our right and front.

Q. What kind of a contest was it?

A. There was heavy artillery firing.

Q. How long did that continue?

A. From the time we came out on to that eminence, out of the woods; there was firing all the afternoon, but not continuous; there was at times heavy firing, rapid firing.

Q. From the character of the firing what were the indications?

A. It was heavy—artillery fire.

Q. I understand you to say that you could see the action going on?

A. I could not see the troops that I recollect. I do not think I could, but the smoke and the bursting of the shells could be seen, and we could hear the sound of the artillery and see the lines of smoke; towards evening we heard musketry firing.

Q. How long was it after the Thirteenth New York went out before you saw that gun run out that you speak of?

A. They had time to get down three-quarters of a mile or more—perhaps half an hour.

Q. During the day what enemy did you see in your front besides what you have mentioned at that time?

A. Saw a line of dust on the left making toward Jackson, who we understood was opposing our forces.

Q. At the time?

A. At the time.

Q. Did you see any enemy directly in your front?

A. These woods were there; nothing more than artillery. There were infantry opposed to the Thirteenth New York.

Q. How long did they remain there, artillery and infantry?

A. I do not know that; they did not remain all the afternoon.

Q. Had no more artillery firing from them?

A. The artillery; three or four shots was all that bothered us.

## Cross-examination by Mr. BULLITT:

- Q. What time was it, in the afternoon or toward evening, that you heard that musketry firing?
- A. The day was well advanced.
- Q. Five or 6 o'clock in the evening?
- A. I should judge so; before sundown some time.
- Q. What you had heard, prior to that time, was all artillery firing?
- A. I do not recollect any musketry firing until toward sundown; perhaps the sun was an hour or two high.
- Q. What time was it that you were sent on that picket-line?
- A. The Thirteenth New York was sent out, and I was in the same brigade with them. As I say, we were preparing for action in the woods about 12 o'clock, I should think.

## MAJ. GEN. ROBERT C. BUCHANAN'S TESTIMONY.

The late Bvt. Maj. Gen. Robert C. Buchanan, United States Army, retired, called by petitioner (board record, page 215), testifies as to the movements of the brigade he commanded in Brigadier-General Sykes's division after they left Manasses Junction, on the 29th, as follows:

- Q. Which way did you move then?
- A. We had been moving by the right flank; we then moved by the left flank; we moved down by the road which takes us near a church, which I have since heard called Bethlehem church, in the direction of Gainesville.
- Q. Where did you halt then?
- A. Near that church and in advance of it.
- Q. In what position were your troops then?
- A. At that time directly on the road.
- Q. How were you formed when you halted there?
- A. We were formed in line of battle immediately after we halted.
- Q. How long did you remain in that position?
- A. I can not tell you.
- Q. During the balance of the day, I mean.
- A. We did not leave that ground that day except under various instructions that we got to countermarch; from time to time we countermarched, of course on the same ground.
- Q. You did not leave that ground?
- A. No; except toward night we changed our direction, I think on to a little road that led us off to the turnpike.
- Q. Practically, you remained in that position during that day?
- A. During that day.
- Q. Do you recollect any stacking of arms?
- A. Yes; they stacked arms from time to time.
- Q. When you did that what position was your line in—still in line of battle?
- A. Always; always ready.

## EDMUND SCHRIVER'S TESTIMONY.

Edmund Schriver, called by the recorder, being duly sworn, testified as follows:

## Direct examination:

- Q. State your rank in the Army.
- A. Inspector-general and brevet major-general.
- Q. What position did you hold on the 29th of August, 1862?
- A. I was then on General McDowell's staff, when he commanded the Third Corps of the Army of Virginia.
- Q. Do you recollect being with him on the 29th of August, at the head of General Porter's column in the neighborhood of Dawkin's Branch?
- A. I do.
- Q. Where did you go then?
- A. Went out to the right with the generals, whose object was, I believe, to make some observations, and then returned to the place whence we started.
- Q. Where did General McDowell leave you, or did he not leave you?
- A. He left somewhere to the east or to his right looking out toward the railroad, my recollection is.
- Q. Which direction did he take when he left?
- A. I think he went in a southerly direction, off to where his divisions were.
- Q. Did you go with him?
- A. No.
- Q. Which direction did you take?
- A. I came a little to the left and went by General Porter's headquarters, and then came down, if I recollect rightly, the road General McDowell went, through the woods; I did not go with him.
- Q. You went down the Gainesville road then?
- A. Yes, sir.

Q. Did you go back with General Porter, or did you follow him?

A. I really can not recollect that; I know we met again.

Q. What transpired at that time when you met him there?

A. I had a little conversation; I can not exactly recollect what it was, except the general said or expressed the belief that he might become engaged with the enemy, and that he had no cavalymen; he either then proposed, or I proposed, or at any rate the arrangement was made, that he should have half of General McDowell's escort that was with me; it was turned over, and I left. He wanted them to send messages.

Q. At that time where were the enemy?

A. I am sure I do not know.

COL. JOHN S. MOSBY'S TESTIMONY.

John S. Mosby, formerly colonel of Maj. Gen. J. E. B. Stuart's staff, testified as follows (board record, page 887):

Q. When did that battle begin on the 29th—what time of day?

A. Pretty early on the morning of the 29th there was heavy fighting.

Q. How long did that continue?

A. My recollection is that there was heavy fighting during most of the day. Early in the morning I suppose I was about the rear of the center of Jackson's line, and I suppose about 8, or 9, or 10 o'clock there came a report that our left flank had been turned, over in the direction of Sudley; I went over there with the First Virginia Cavalry, according to my recollection; for the purpose of checking that, and we were there the whole of the day.

Q. What of the action could you see and hear? Describe all that you recall of that action.

A. We could not see the fighting. I was with this cavalry, and I suppose we were half a mile, or part of the time within a mile of it. In the morning this regiment that I got with I suppose was not half a mile in the rear of Jackson's line; but when the report came that the Federal cavalry was over on Jackson's left, and there was danger of their capturing his wagons and ambulances that were in the rear of Sudley church, this cavalry was sent over there to protect Jackson's left, and I went with it.

Q. Do you know what the losses of Jackson were in that action?

A. No, sir.

Q. From 12 o'clock noon up to 3 o'clock in the afternoon, do you recollect the character of the fighting as far as you could judge from the sound?

A. My general recollection of it is that most of the day there was heavy fighting. I cannot particularize.

Q. Musketry and artillery?

A. Musketry and artillery.

LIEUT. COL. THOMAS C. H. SMITH'S TESTIMONY.

Attention is also called to evidence of Lieut. Col. T. C. H. Smith, afterward brigadier-general, as follows:

By the JUDGE-ADVOCATE:

Q. Will you state in what capacity you were serving in the Army of Virginia in its late campaign under General Pope in August last?

A. I was aid-de-camp on the staff of General Pope.

Q. Did you, or not, on the 28th or 29th of August, carry any orders from Major-General Pope to Major-General Porter which concerned his movements on those days?

A. I did not.

Q. Did you, or not, see General Porter during either of the days of the 27th, 28th, and 29th of August?

A. I saw General Porter on the afternoon of the 28th.

Q. At what place and under what circumstances did you see him?

A. I had been sent back to the ammunition on the train at Bristoe and charged with its distribution. General Porter wished over four hundred thousand rounds; General Hooker something over ninety thousand rounds. About 2 or 3 o'clock I had sent forward to General Porter some three hundred and twenty thousand rounds, and had seized wagons to forward the balance, and left Captain Platt in charge. The business being then sufficiently forward, I went on to find General Pope. On getting to the point where I had left General Pope in the morning, I found he had moved on, and, to inquire the road he had taken, I went to General Porter's headquarters, near the Manassas water station. I found General Porter in his tent, and asked him which road General Pope had taken, and he informed me. I had some ten minutes' conversation with him. One of his staff was present; I forget his name.

Q. Will you state that conversation?

A. After asking him about the road, I told General Porter the amount of ammunition that I had sent forward to him, and also that the balance would come

immediately forward. I asked him if he had received it, or made some remark; I can not remember the exact expression. General Porter said that he had not; that was the substance of his reply—either that he had received hardly any of it, or none of it, if I remember aright. I expressed some surprise, and said that it had been sent forward to the front as ordered; and, either in reply to some question of mine or to some remark, or of himself, he said that he had no officers to take charge of it and distribute it, or to look it up, or something of that kind. I remarked that he could hardly expect us at headquarters to be able to send officers to distribute it in his corps; that it had been sent forward on the road in the direction where his corps was. He replied that it was gone where it belonged; that it was on the road to Alexandria, where we were all going. I do not know as it is evidence to give the spirit in which this was said—the way it impressed me. Those remarks were made in a sneering manner, and appeared to me to express a great indifference. There was then a pause for a moment. General Porter then spoke in regard to the removal of the sick and wounded from the field of Kettle Run. He said it would hurt Pope, leaving the wounded behind. I told him that they were not to be left behind; that I knew that a positive order—an imperative order—had been given to General Banks to bring all the wounded with him, and for that purpose to throw property out of the wagons if necessary. To this General Porter made no reply in words; but his manner to me expressed the same feeling that I had noticed before. This conversation, from General Porter's manner and look, made a strong impression on my mind. I left him, as I have said, after an interview of about ten minutes, and rode on, arriving at our headquarters on Bull Run just as we entered them and pitched our tents for the night. After my tent was pitched, and I had had something to eat, I went over to General Pope and reported to him briefly what I had done in regard to the ammunition. I then said to him, "General, I saw General Porter on my way here." Said he, "Well, sir?" I said, "General, he will fail you." "Fail me?" said he; "what do you mean? What did he say?" Said I, "It is not so much what he said, though he said enough; he is going to fail you." These expressions I repeat. I think I remember them with exactness, for I was excited at the time from the impression that had been made upon me. Said General Pope, "How can he fail me? He will fight where I put him; he will fight where I put him;" or, "He must fight where I put him; he must fight where I put him"—one of those expressions. This General Pope said with a great deal of feeling, and impetuously, and perhaps overbearingly, and in an excited manner. I replied in the same way, saying that I was certain that Fitz-John Porter was a traitor; that I would shoot him that night, so far as any crime before God was concerned, if the law would allow me to do it. I speak of this to show the conviction that I received from General Porter's manner and expressions in that interview. I have only to add that my prepossessions of him were favorable, as it was at headquarters up to that time. I never had entertained any impressions against him until that conversation. I knew nothing with regard to his orders to move up to Kettle Run. I knew nothing of any failure on his part to comply with any orders.

Q. State more distinctly the point where you saw General Porter on the 28th of August?

A. He was encamped at the Manassas water station, between Bristoe and the junction. The water station was a short distance from his headquarters. [The witness indicated upon the map before the court where he thought the place to be.] I do not think the water station is more than one-third the distance from Bristoe to Manassas Junction. That is my impression; I can not speak positively about it.

Q. In the conversation to which you refer, did or did not General Porter manifest any anxiety to get possession of, and have distributed in his corps, the ammunition of which you speak?

A. No, sir; I thought he showed an utter indifference upon the subject; showed it very plainly.

Q. At what hour of the day did this conversation between you and General Porter take place?

A. I think it must have been about 4 o'clock in the afternoon; half past 3 or 4 o'clock.

Q. In anything that was said in that conversation, or in the manner of General Porter, was there evidenced any desire or any willingness on his part to support General Pope in the military operations in which he was then engaged?

A. Quite the contrary to that.

Q. Can you state whether the disinclination to support General Pope, which you thought he manifested, was the result of disgust with the immediate service in which he was then engaged, or of hostility to the commanding general, or upon what did it seem to rest?

A. It seemed to me to rest on hostility. But I do not know that I could analyze the impression that was made upon me. I conveyed it to General Pope in the words that I have stated. I had one of those clear convictions that a man has a few times perhaps in his life as to the character and purposes of a person whom he sees for the first time. No man can express altogether how such an impression is gained from looks and manner, but it is clear.

Q. Had you passed over the road between Bristoe Station and Warrenton Junction on that day or on the previous day?

A. On the previous day, the 27th, I came over it after General Pope.

Q. At what hour of the day did you pass over it?

A. I should say that I left our headquarters, about a mile from Warrenton Junction, about half past 4 or 5 o'clock in the afternoon. I should say it was past the middle of the afternoon.

Q. What was the condition of the roads then?

A. For the first mile and a half, until you got to Cedar Run, the road was bordered on either side by open fields or open woods, over which troops could march easily, in great part without going on the road. Indeed, I doubt whether there is any regular road a good part of the way up. The troops marched through the fields to Bristoe Station.

Q. Were you or not present at the battle of the 29th of August?

A. Yes, sir; I was present.

Q. Throughout the engagement?

A. I left with General Pope when he rode on to the field, but on the way out he sent me with an order off the road, so that I did not get on the field for two or three hours after that.

Q. At what time did you regard the battle as commencing?

A. The smoke was rising over a considerable portion of ground, I should say a mile, plainly in view, when we were at Centreville; and there was some heavy cannonading. I should say it was about 10 or 11 o'clock when I first came to Centreville, and it was about 11 or 12 o'clock when I saw the appearance of which I speak—the sign of a heavy action, from the smoke rising. It was very plainly in view from Centreville; you looked right down upon it, and you could hear the sound of the guns. I did not ride up to the town at first, but finding that General Pope had not ridden on, as I had supposed, I rode back to Centreville, and then it was I saw the appearance I speak of, about 11 or 12 o'clock. I should mention, too, in order that it may be clearly understood in regard to the action, that at the time I was sent off from the road, while General Pope was riding on the field there was a cessation of cannon-firing for a considerable time, I should say for certainly a half an hour.

Q. Was or was not the battle raging at 5 p. m. on that day?

A. Yes, sir; severely.

#### WILLIAM L. FAXON TESTIFIES.

William L. Faxon testifies as follows (board record, page 844):

Q. State your occupation?

A. Superintendent National Sailors' Home, Quincy, Mass.

Q. Were you in the military service of the United States on the 29th of August, 1862; if so, in what capacity?

A. I was assistant surgeon of the Thirty-second Massachusetts from the 2d of June, 1862, until along in August, 1863.

Q. Where were you on the night of the 27th?

A. In camp at Warrenton Junction.

Q. In whose brigade and division?

A. I was in the second brigade, first division, Fifth Corps, Morell commanding division, and General Griffin commanding the brigade.

Q. At what time did you leave Warrenton Junction, and what direction did your regiment take?

A. The bugle sounded for an early start, and it was quite dark. We got out just before daylight, and my brigade lay outside of the wood in which we camped until the sun was pretty high.

Q. What direction did you take from there?

A. We marched off a little to the left of the wood and crossed a little run, and went up to Catlett's, and from there to Bristoe; followed the general direction of the Orange and Alexandria Railroad.

Q. At what time did you arrive at Bristoe Station with your regiment?

A. I judge about the middle of the afternoon.

Q. During that time did you see General Porter?

A. I saw General Porter only as I crossed the run at Bristoe.

Q. Where was he at that time?

A. He was at a little house on the left hand of where I crossed; that is, on the side toward Washington. He and his staff were at a little house; I think it was a kind of peach orchard; I think most of them were sitting down.

Q. Describe what you saw and heard, so far as General Porter was concerned.

A. As I crossed the run I heard General Porter make this remark: "Go tell Morell to halt his division;" and he added, "I don't care a damn if we don't get there." I am very particular about those words, because I recollect them, and I have spoken of them.

Q. On the next morning where were you?

A. I marched with the regiment, and I think we went up about as far as Manassas Junction, where we halted a short time; then the regiment turned off to

the left, I believe, and crossed the road and came off on a road not exactly parallel, but curving off and following the general direction of the Manassas Gap Railroad, I think.

Q. Do you know the place where you halted?

A. We halted on a small knoll; part of it overlooked quite a large valley; quite a large part of it was cleared, and on the right I saw the line of the Manassas Gap Railroad.

Q. This point that I have indicated on the map as Dawkin's Branch?

A. I should take the branch to be a little farther away. I should take the branch to be about a mile away from the place where we halted; there might have been a dry run at the foot of this knoll, but I think not.

Q. What did you do after you came to a halt there?

A. I went down on the railroad. I went around generally in the woods and looked at the situation generally; saw firing was going on along the right of us, over toward Thoroughfare Gap.

Q. Did you see any indications of an enemy immediately in your front?

A. I did not see any for a mile or more; I looked along through the field close. General Porter came up and borrowed a glass of me; he asked me what I had seen. I told him I thought there was a battery coming in about a mile from us on the Washington side of the road. Not very far from it I think there was a small house, and I saw something that led me to suppose that there were men going in there.

Q. Do you recollect what reply he made?

A. I do not know that he made any reply to me.

Q. Did that battery open upon you?

A. It opened shortly afterward; of course I can not tell you how many minutes, because I did not keep any note of the time. I had no intention of making any memorandum. It opened and fired before the troops were withdrawn; I think not exceeding three, might have been four, possibly but two, shots.

Q. Where did those shots strike?

A. One of the shots struck a man in the front rank of the First Michigan Infantry, and passed through his abdomen, and struck the first man in the rear rank in the thigh.

Q. You were there at the time?

A. I was at the place and saw the men. They were sitting or lying just a little lower down on the slope of the hill in front of me.

Q. Then what was done?

A. Shortly after that we withdrew.

Q. What indications, if any, did you see of an enemy in your front or to your right and front, or to your right?

A. To the right and front.

Mr. CHOATE. I do not know that an assistant surgeon is a military expert.

The RECORDER. I asked him what he saw.

Mr. CHOATE. I have no objection to what he saw.

A. [Continued.] Beyond this general clearing to quite a large extent there was a smaller clearing, only a part of which could be seen; there was a small opening in the woods; across that opening there came a small body of men; they halted in the opening, where there was evidently a depression, but their heads and shoulders could be plainly seen.

Q. About how many men?

A. I should judge, not over twenty.

Q. What else did you see of an enemy in your front, or to your right and front, or to your right?

A. Nothing.

Q. Could you see anything that would indicate the march of troops; if so, what?

A. I could see a large cloud of dust on the Warrenton turnpike, moving towards Centreville.

Q. After that where did you go?

A. I went into camp with troops at night, after they withdrew.

Q. Did they remain in this advanced position during the day?

A. They were withdrawn in the afternoon; the sun was declining in the heavens.

Q. How far were they withdrawn?

A. I should judge inside of a mile.

Q. More than half a mile or less?

A. That I could not tell you; I could go to the spot, to the place where they came, because we withdrew on the same road, and then came back and went into camp again after dusk.

CAPT. DOUGLAS POPE SWORN.

Capt. Douglas Pope was then called by the Government and sworn and examined, as follows:

By the JUDGE-ADVOCATE:

Q. Will you state what is your rank in the military service?

A. I am captain and additional aid-de-camp.

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Q. Were you with the Army of Virginia in its late campaign under Major-General Pope?

A. I was.

Q. In what capacity?

A. As additional aid-de-camp to General Pope.

Q. Were you or not on the field of the battle of Manassas on Friday, the 29th of August?

A. I was.

Q. Did you or not on that day bear any order from General Pope to General Porter; and, if so, what was its character, and at what hour did you bear and deliver it?

A. I received an order from General Pope, to be delivered to General Porter, at half past 4 o'clock. The purport of the order I did not know at the time. I went directly to General Porter with that order, and it reached him by 5 o'clock.

Q. Was or was not that the only order which on that day you had to General Porter from General Pope?

A. It was.

Q. Where did you find General Porter with his command?

A. I found him at the forks of the road leading from Manassas to Gainesville and Groveton, on the railroad.

Q. What distance was that from Manassas Junction?

A. I do not know, of my own knowledge; but I have heard that it was between two and three miles.

Q. What distance from the battlefield where the engagement was then pending?

A. When I received the order I was to the right of the battlefield, and I suppose it was a distance of about three miles from General Porter.

Porter was not with the head of his column, but back within two miles of Manassas Junction.

Q. Did you or not, on delivering the order, learn its character?

A. I did not.

Q. What statements, if any, did General Porter make to you in regard to the movements which the order contemplated he should make?

A. In a conversation which I had with General Porter, after his reading the order, he explained to me on the map where the enemy had come down in force to attack him and had established a battery. I understood him to say that the enemy had opened upon him; but what he had done I do not now remember.

Q. How long did you remain with General Porter?

A. About fifteen minutes, I suppose.

Q. While you were there, or at any time before you left, did you observe any orders given or any indication of preparation for a movement in the direction of the battlefield?

A. I did not.

Q. In what condition were the troops there at that time?

A. I saw only a portion of them; the portion that I saw I believed belonged to General Sykes's division. They were on the road between the forks of the road and Manassas—what small portion of the troops I saw that belonged to General Porter's corps. It was my impression they were halted there; I saw the arms of some of them stacked.

Q. They had their arms stacked?

A. Yes, sir.

Q. Was not the sound of the artillery of the battle then pending distinctly audible at that point?

A. It was.

Q. And was the sound of the small-arms distinctly audible at that point?

A. In regard to the small-arms I do not remember; but I could hear the artillery very plainly, very distinctly.

Q. Was it continuous, indicating a continued action?

A. It was.

Q. Did or did not General Porter make any inquiry of you at all as to the condition of the forces then engaged in battle?

A. There were inquiries made of me by an officer—one of General Porter's aids-de-camp, I think. I do not think that General Porter said anything to me about it.

Page 58, G. C. M.:

Q. As you have passed over the road and know the distance, will you state within what time General Porter and his command could have reached the battlefield after the delivery of that order?

A. To have reached where I had received the order would have taken him two or three hours, I suppose—that is, to the extreme right of our army.

Q. Within what time would it have required him to reach the right flank of the enemy?

A. I could not state, because I do not know where the right flank of the enemy

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then was. My impression, though, from what General Porter said, was that the enemy were nearly in his front. I supposed them about a mile from him. That was merely my impression from the conversation I had with General Porter.

Q. Did you or not have another interview with General Porter after that time?

A. I did not. After receiving a written reply to the order I had delivered to General Porter, I started on my way back, and I suppose I had got a mile or a mile and a half from where General Porter was when I was overtaken by an orderly, who said General Porter wished to see me. I got part way back when I met an officer, I supposed an aid-de-camp of General Porter, who said that General Porter wished to see me. I went back, and this aid-de-camp told me I better wait a few minutes. I did not see General Porter then.

Q. Had you, or not, seen this officer whom you supposed to be an aid-de-camp during your first interview with General Porter?

A. I had, and had had a conversation with him.

Q. In the presence of General Porter?

A. While General Porter was writing the reply to the order I had delivered to him.

Q. What seemed to be his rank?

A. He was a first lieutenant, I think.

Q. Did he, or not, perform any act or make any remark in the presence of General Porter which induced you to believe that he was an aid-de-camp? If so, state what that remark and what that act was.

A. I do not remember his making any remark to General Porter, or General Porter saying anything to him. My impression is that he told me that he was an aid-de-camp. I firmly believed at the time that he was General Porter's aid-de-camp. I did not see any act indicating that, excepting that he was associated with General Porter; he was very close to General Porter at the time I had the conversation with him; within hearing of General Porter if he had listened to it.

Q. Do you, or not, suppose that his statement to you, that he was an aid-de-camp of General Porter, could have been heard by General Porter if he had been listening to your conversation?

A. It could.

Q. Do I not understand you, then, to say that that conversation occurred in fact in the presence of General Porter?

A. In the presence of General Porter; yes, sir.

Q. Were you not charged by that officer with a message to General Pope that a scout had come in reporting that the enemy were retreating through Thoroughfare Gap?

A. I was.

Q. Did you regard that message as given to you seriously or jestingly?

A. Seriously.

Q. How long a time had elapsed from the time of your interview with General Porter until your return to General Porter's encampment?

A. About three-quarters of an hour, I suppose; between that and an hour.

Q. On your return to his encampment, did you or not observe any preparation on the part of his officers or of the troops for an advance upon the enemy?

A. I did not.

Q. What was the dress of this officer whom you supposed to be an aid-de-camp?

A. I do not remember. I do not know whether he had a staff officer's shoulder-straps on or a line officer's. I do not remember now which it was. He was in uniform.

The examination by the judge-advocate here closed.

Examination by the ACCUSED:

Q. How does the witness fix the hour of the day when he left General Pope to bear the order?

A. From the date of the order, which was dated at 4.30 p. m.

Q. Was the road which you took to bear the order from General Pope to General Porter direct or circuitous?

A. My impression is that it was a direct road.

Q. Did you pass through Manassas Junction?

A. I did not, that is, in conveying the order to General Porter, I did not.

Q. Did you go up the railroad toward General Porter?

A. I did not; I met him right on the railroad.

Q. You have stated how you fix the time when you received the order; how do you fix the time of its delivery?

A. By the distance and the rate at which I carried the order.

Q. And so fixing it, you determine the order to have been delivered at 5 o'clock?

A. Not precisely at 5 o'clock; by 5 o'clock.

Q. You mean as early as 5 o'clock?

A. As early as 5 o'clock. It may have been three or four minutes after 5 o'clock.

Q. We understand you to say that you make this judgment as to the time from the distance which you had to pass over and the rate you went?

A. Yes, sir.

Q. When you first started to go back from General Porter to General Pope, did you take the same road back by which you had come to General Porter?

A. I did.

TESTIMONY OF GENERAL GEORGE SYKES.

On the original trial Brig. Gen. George Sykes swore, after saying that he was with the petitioner when an officer brought him the order from General Pope, as follows (G. C. M. record, pages 177, 178):

By JUDGE-ADVOCATE:

Q. Did General Porter make known to you the character of that order?

A. He did not.

Q. Did he read it in your presence?

A. Not that I know of.

Q. How long did you remain with General Porter on that occasion, after the receipt of this order?

A. I continued with him from that time all night.

Q. You had then, as I understand you to say, no knowledge that a positive order had been given by General Pope on that afternoon for General Porter to attack the enemy on their right flank?

A. I had no such knowledge.

The evidence of General Sykes leads directly to the conclusion that the petitioner had no intention or desire to attack or he would have told his division commander then and there.

Look at it in any light, there was no effort then, or at any time afterward on that day, to put Sykes's division into position to support or participate in an assault.

CAPT. GEORGE M. RANDALL'S TESTIMONY.

Capt. George M. Randall, Twenty-third United States Infantry, a Government witness (board record, page 725), testified as follows:

Direct examination:

Q. On the 29th of August, 1862, where were you, and what rank did you hold in the service?

A. Second lieutenant, Fourth Infantry, attached to Sykes's division.

Q. Where were you on that morning?

A. We were at Bristoe Station.

Q. Moved up from there to Manassas Junction?

A. Yes, sir; from Manassas Junction we took position on the Gainesville road beyond Bethlehem church.

Q. When you were at Manassas Junction were there any indications of an action? If so, what were they?

A. Yes, I think so; I heard very distinctly heavy firing; as near as I can recollect, it was about half past 9 or 9 o'clock in the morning.

Q. How long did you continue to hear that?

A. I do not recollect; I heard artillery firing during the day several times, and I think along about 3 or quarter to 4 o'clock in the afternoon I heard it again; quite a brisk firing at that time.

Q. How far did you get upon the Manassas and Gainesville road?

A. I think we moved about three miles, probably four miles, beyond the church.

Q. Did you go up to the front?

A. Very near it; sufficiently far that I could see the opening between our lines and where the rebels were supposed to be; at that time we were in a belt of timber; the head of the column, as near as I can recollect, halted at the edge of it.

Q. What indications were there of an enemy in front of you?

A. I heard several shots exchanged, and also some few shots from the skirmish line.

Q. Anything more?

A. That is all.

Q. Did you see any enemy?

A. I did not.

Q. What did your brigade then do?

A. I think sometime in the afternoon we countermarched, probably about two and a half miles, and then halted and bivouacked for the night.

Cross-examination by Mr. BULLITT:

Q. About what time did your company get up into the front?

A. I think about 11 o'clock.

Q. How near to the front were you?

A. I suppose we were three-quarters of a mile from the front; sufficiently near so that we could see the open space.

Q. Did you change your position that day at all to the right or left?

A. I think not. I think we moved to the rear.

Q. You have no recollection of being moved back into the woods?

A. I think we halted in the woods.

Q. The only move you made was to march back about two miles?

A. Yes; that is all I recollect.

Q. How far back in the woods were you?

A. We went back about two and a half miles or two miles, but the exact point it is impossible for me to mark; we may have moved up here [in the woods] and taken a zigzag.

Q. Then you took your position in the woods, and then you subsequently countermarched toward Bethlehem church. Now, I want to know whether you made any other movement after you had passed Bethlehem church and got up toward Dawkin's Branch except first to march to the point where you first halted; then you got into the woods, and afterward countermarched about two miles back to Bethlehem church; did you make any other movement during that day?

A. No, sir.

Q. Will you explain what you mean by countermarching in that particular instance?

A. We marched to the front, and then faced the column about and went to the rear.

Q. Did you countermarch by brigade?

A. By regiments and brigades, as near as I can recollect.

Q. By which, regiments or brigades?

A. By brigades, I think.

Q. You were in the leading brigade as you went forward?

A. I was in the leading brigade, Sykes's division.

Q. When you countermarched and marched to the rear where were the other two brigades of the division?

A. I think they were going to the rear.

Q. You did not pass them?

A. No, sir; I think not.

Q. Did you march in the road going back?

A. Yes, as near as I can recollect.

#### CHARLES DUFFEE SWORN.

Charles Duffee (page 609, board record), called on behalf of the Government, being duly sworn, testified as follows:

Direct examination by the RECORDER:

Q. Where do you reside?

A. Washington Court House, Ohio.

Q. On the original trial in 1863 of the petitioner here you were called as a witness for the Government, were you not?

A. Yes, sir.

Q. And testified as to the direction you took in delivering a certain order, commonly known as the "4.30 p. m. order?"

A. Yes, sir.

Q. Where were General Pope's headquarters on Friday afternoon, August 29, 1862, about 4 o'clock?

A. He was at the right-hand side of the stone house on the hill.

Q. Do you know what that hill is called?

A. I don't recollect now. I recollect the place very well.

Q. Where were you at the time that Captain Pope received the 4.30 order?

A. I was at General Pope's headquarters, not over three or four rods from his headquarters, in the edge of the woods.

Q. What were you doing there?

A. Awaiting orders.

Q. What then transpired?

A. Captain Pope called for his horse and mine and I fetched them up; Mr. Ruggles, I believe, gave him the order. He was giving him the directions of Porter's headquarters when I came up. I spoke up and told him I knew the road; I had been through there before.

Q. How soon after that did you start?

A. We immediately started. I think I was mounted when he was speaking about the road, if I recollect right.

- Q. Have you since been over the route that you took at that time?  
 A. Yes, sir.  
 Q. Recently?  
 A. Last Tuesday.  
 Q. Under my instructions?  
 A. Yes, sir.  
 Q. In this conversation with Mr. Collins, when you pointed out the route on that map, did you not state that the route which you took was an old road, not used by wagons, but wagons could have traveled it?  
 A. Yes; part of the road was.  
 Q. I asked you what you said to him.  
 A. I don't know whether I told him the whole road was so or not.  
 Q. I only asked you what you told Collins. Did you tell him that it was an old road not used by wagons, but wagons could have traveled over it.  
 A. Do you mean to say the whole distance?  
 Q. I ask you what you said to him.  
 A. I didn't tell him the whole road; a part of the road.  
 Q. You told him a part of the road?  
 A. Yes, sir.  
 Q. Did you tell him that neither Captain Pope nor any other officer went with you, but that five or seven men went with you?  
 A. I did. I didn't want him to know that Captain Pope was with me. I didn't care much about answering his questions. I was not under oath.  
 Q. You were not under oath, and therefore you did not feel bound to tell him the truth?  
 A. That is it exactly. I found out when he got to that point what he wanted, and I evaded the question.  
 Q. You did tell him Captain Pope was not with you?  
 A. I did, as soon as I mistrusted what his object was.  
 Q. Did you tell him that you were ordered to leave three of the men with you at General Porter's if there were five, or four if there were seven with you?  
 A. I don't recollect about the number.  
 Q. Do you recollect telling him that you were ordered to leave any men with General Porter?  
 A. I told him that was the direction; I don't know whether I told him I was so directed.  
 Q. Do you recollect saying to him that you traveled slowly, for both you and your horse were worn out, and besides that you did not know but you might run into the enemy at any time?  
 A. Not going; coming back.  
 Q. I ask you what you said to him. Did you tell him that you traveled slowly for both you and your horse were worn out?  
 A. I told him we traveled slowly coming back.  
 Q. Did you use the words, "We traveled slowly, for both I and my horse were worn out?"  
 A. Coming back.  
 Q. Did you say coming back?  
 A. Yes; I did.  
 Q. And did you say to him, "and besides I did not know but what we might run into the enemy at any time?"  
 A. Yes; coming back.  
 Q. You said coming back?  
 A. Yes; that was the only time I suggested running into the enemy, coming back?  
 Q. Did you say, "I walked my horse a good deal of the way; after I got on the main road at 'E,' I soon found it full of General Porter's troops, and they prevented my getting along very fast?"  
 A. I supposed it was Porter's troops. [Witness looks at the map.] This is too far down. I did not see any "E" on the map when I was talking to him.  
 Q. You did not say to him, "After getting on the main road at 'E' I soon found it full of General Porter's troops?"  
 A. Not at "E." I supposed them to be Porter's troops; but it was farther up this way; not as far down as that was.  
 Q. It was nearer to the railroad than the letter E on the Collins map?  
 A. Yes, sir.  
 Q. Did you tell him it was about 6 p. m. when you delivered to General Porter the order?  
 A. No, sir. He wanted me to say so, but I wouldn't do it. Then he wanted me to say it was half-past 6, and I wouldn't do it.  
 Q. You did not want to deceive him, then?  
 A. I had an object in not letting him know about Captain Pope. I didn't want to be summoned.  
 Q. Your object in not telling him that Pope was with you was in order not to be summoned here?  
 A. No; I didn't want to be summoned.

Q. That was the reason you deceived him in reference to Captain Pope being with you?

A. That was one reason.

Q. You did not say that it was not earlier than that, but may have been a little later?

A. How is that? Earlier than what?

Q. "I think it was about 6 p. m. when I delivered the order to General Porter. It was not earlier than that, and may have been a little later."

A. No, sir; I did not say that, because I knew it was not so. I knew it did not take me any hour and a half to ride four and a half or five miles.

By the RECORDER:

Q. Who commanded the battalion of your regiment at the headquarters of General Pope?

A. I don't know as I can tell. I was not with the company much; I was at headquarters all the time; but I think Captain Jones, who was a lieutenant at that time.

Q. Who was the lieutenant-colonel of your regiment?

A. T. C. H. Smith, who was then at Pope's headquarters, and I believe Menken had command of a squadron, but I don't recollect whether it was so or not.

Q. Where did you first see this map called the "Collins map?"

A. I do not know. I saw one map at Columbus. Whether that is the same one or not I do not know. I have no marks by which I can tell.

Q. Who had it there?

A. Francis Collins.

Q. Have you seen him since that time?

A. I saw him here in the court-room; met him at the door on Friday.

Q. Did you make these marks on that map? [Red marks.]

A. No, sir.

Q. Are you familiar with maps of that kind?

A. No, sir.

Q. What is your occupation?

A. I am now in the grocery business; my regular business is boots and shoes.

Q. Were you acquainted with Mr. Collins before this interview that you had with him in Columbus?

A. I saw him once before that, but I was never acquainted with him.

Q. Was that the first interview that you ever had with him in reference to this case?

A. I had another interview with him, but he did not tell me at that first interview what his object was, only that he wanted to see me.

Q. How long ago is that?

A. I do not know as I can recollect just what year it was in. It was about eighteen months or maybe two years after the first trial.

Q. What was the occasion of your going to Columbus from your home at Washington Court House?

A. Do you mean the second time?

Q. Yes.

A. I received a letter from Mr. Collins requesting me to come to Columbus—that he wanted a private interview with me. He stated it would be at his expense if I came. I did not know what he wanted. I supposed it was the Porter case, and I dropped him a few lines and told him if he would send me \$10 I would go, and gave him reference in Columbus that I would perform my part of the contract. In a few days the \$10 came, and I went.

Q. What did Mr. Collins say he wanted with you?

A. He told me when I first went into his office that it was in regard to the Porter trial. We talked a few minutes, and he then invited me over to his house.

Q. What did he ask you?

A. It was in regard to the time when we left General Pope's headquarters with that 4.30 order, the road that we traveled, and the time that we got there.

Q. Go on and describe, as near as you can, what questions he asked you.

A. He asked me the road, asked me the point where General Porter's headquarters were, and what time I thought it took me to travel the distance, what time I started, and the time I got there; says he, "Can you recollect whether it was as late as half-past 6?" I told him no. Then he wanted to know if it was as late as 6. I told him it was not.

WILLIAM B. LORD TESTIFIES.

William B. Lord testifies as follows (board record, marginal page 969):

Q. Will you state substantially what that interview was, and what General Porter said?

A. I had been directed by the judge-advocate of the court to proceed to the rooms of General Porter and to look for some telegrams that had been introduced

in evidence that day, and that had been mislaid in some way. While there looking over some papers General Porter made the remark, "I was not loyal to Pope; there is no denying that."

Q. Do you recall anything else that he said in that connection?

A. I can not say that I do, and I doubt if I should recall that now but for the peculiarity of the circumstance, and the fact that I made a record of it myself a few days afterward; otherwise I think likely I should have forgotten it.

Q. That was during the progress of his trial before a general court-martial?

A. It was.

The PRESIDENT OF THE BOARD. The decision is that the letter is admissible for the purpose stated by counsel, namely, not to prove the fact, but to test the credibility of the witness.

By the RECORDER:

Q. You have stated in your cross-examination that the feelings which had actuated you you expressed at the time you wrote that letter to your wife. It was not called for by the counsel for the petitioner; I will call for it. Please let me know what you stated on the subject, if you have that letter here.

A. [Witness produces a book.] Shall I read?

Q. Just that part and no more.

The witness read as follows:

"I have been a little bothered about General Fitz-John Porter. I had to go to his room on Monday to get some papers that belonged to the court that he had had to copy. One of the reporters of the New York Times was along with me. While in the room, after some conversation, General Porter made the remark, 'Well, I wasn't loyal to Pope; there is no denying that.' Now, that is really the charge against him before the court-martial—that he did not do his duty as an officer before the enemy, and that he did not act rightly toward General Pope, his commanding officer. General Porter said what he did in the privacy of his own room; without thinking of the effect of his words. After thinking it over, I have concluded it better not to say anything about it now, though I would not promise as much for that newspaper correspondent."

Q. That is your letter-press copy of your letter to your wife?

A. It is.

Q. Do you retain usually letter-press copies of your letters to your wife?

A. All of my correspondence.

Q. Do you know whether or not some one may not have heard the same language at some other time, or an affidavit made on the subject and communicated to Senator Chandler?

A. I know nothing about that.

WATERMAN L. ORMSBY CALLED.

Waterman L. Ormsby (board record, page 638), called by the recorder, being duly sworn, was examined, and testified as follows:

Direct examination:

Q. Where do you reside?

A. Two hundred and forty-seven Putnam avenue, Brooklyn.

Q. Do you know the petitioner?

A. By reputation.

Q. I mean do you know him when you see him?

A. I should not have known him to-day if he had not been pointed out to me.

Q. Do you recollect having seen him at any time during the month of December, 1862?

A. I do.

Q. Where was it?

A. In his room in the city of Washington, at his residence.

Q. About what time in the month was it?

A. I can't recollect.

Q. In reference to the beginning or end of the month?

A. I have no recollection.

Q. At the time you saw him there were you accompanied by anybody? If so, by whom?

A. By Mr. Lord, the official stenographer of the court-martial.

Q. What is his first name?

A. I think William Blair Lord is his name.

Q. Do you recall the purpose for which you went to General Porter's room?

A. Yes.

Q. Please state it.

A. I went in company with Mr. Lord for the purpose of procuring some documents which had been offered in evidence that day, and which Mr. Lord desired for the official record, and which I desired to be used in my report for the New York Times, which I then represented.

Q. At what time do I understand that General Porter's trial was in progress?

A. It was then in progress.

Q. Do you recollect the conversation?

- A. Only a small part of it.
- Q. Do you recollect any remarks made by General Porter?
- A. I do. One made a strong impression upon me at the time.
- Q. What had it relation to?
- A. It had relation to his feeling toward General Pope and General McClellan.
- Q. What was the remark which he made?
- A. "I wasn't loyal to Pope; I was loyal to McClellan."
- Q. What did you at the time understand that the remark had reference to?
- Mr. CHOATE. That I object to. His understanding of the matter is unimportant.
- The RECORDER. On the contrary, if he knows what the conversation is about.
- Mr. CHOATE. He should certainly be permitted to give all the conversation that he collects, but anything outside of that certainly cannot be drawn from the witness.
- The PRESIDENT OF THE BOARD. Perhaps the recorder can change the form of the question so as to elicit the facts without its being subject to objection.
- The RECORDER. I will take the ruling of the board upon the question.
- Mr. CHOATE. We suppose that it is the board's understanding of anything that General Porter may have been proved to have said, and not the witness' understanding.
- The PRESIDENT OF THE BOARD. I suggest to the recorder that it might be better to ascertain what transpired to produce an understanding on the part of the witness.
- The RECORDER. Then the question is overruled?
- The PRESIDENT OF THE BOARD. For the present.
- Q. When that remark was made what was the conversation?
- A. It would be impossible for me to state another word of that conversation positively. My recollection is that it referred to the testimony which had been given that day, and concerning which General Porter seemed to be considerably excited.

## EVIDENCE OF GENERAL GRIFFIN.

Then take the evidence of General Griffin. General Griffin commanded one of the brigades of Morell's division. Griffin retired with his brigade to Centreville. He said:

In the evening, a little after dark, there were some very heavy volleys of musketry, the enemy evidently driving our troops right before them. That musketry was to our right and front, I should say two miles, maybe not so far; maybe further. I should have stated, when I stated that I heard no other firing but artillery, that in marching we had some skirmish firing.

Q. You spoke of having returned from the movement you made to the right in consequence of obstacles that you encountered. What was the character of those obstacles, and what efforts did you make to overcome them?

A. I led off my column. We ran up into some little thick pine bushes. We halted there. The next order I got was to move back again. Some one reported that we could not get through. I made no reconnaissance whatever myself.

Q. You say that you had failed to get through to the right during the day of the 29th of August. Will you state what efforts were made by you, or by General Porter, to get through on the right during that day?

A. I merely obeyed orders.

He does not say that he made any effort, but "I merely obeyed orders."

My position was at the head of my brigade. What efforts General Porter made I am not aware of.

## GENERAL MORELL'S TESTIMONY.

General Morell, division commander of Porter, says:

Colonel Marshall reports that two batteries have come down in the woods on our right, toward the railroad, and two regiments of infantry on the road. If this be so, it will be hot here in the morning.

Q. Was that returned with this indorsement of General Porter: "Move the infantry and everything behind the crest, and conceal the guns. We must hold that place and make it too hot for them. Come the same game over them that they do over us, and get your men out of sight?"

A. Yes, that was the next one.

Q. When that was received by you, directing you to move your infantry and everything behind the crest, and conceal the guns, where were your infantry and the other troops?

A. At that time they were deployed in line, mostly two brigades, along the crest that leads to the descent towards Dawkin's Branch.

Q. It was from there that you were directed to move?

A. From there I was directed to put the men under cover. On this left-hand

side of the road as we advanced it was all open ground; on the right-hand side bushes. One of my batteries, supported by a brigade, was on the right-hand side of the road, just on the crest of the ridge; the other battery on this side. When General Porter sent me that order I put them back into the fine bushes; and the other two batteries on this side of the road were on a slight depression; I supposed the ridge in front would conceal them from the enemy. I had three batteries, and one was in position all the time.

General Morell continues, on page 423, board record:

Q. Why is it that on No. 30, the communication from General Porter to yourself, and on those that follow, there is no memorandum of the hour and minute of the receipt?

A. It was always my practice to note the hour of the receipt. Two days previous to that, on the march from Kelly's Ford to the Junction, I injured my watch, and then I had to guess at the time.

Q. And you did not put on the guess?

A. I did not put on the guess.

Q. Will you state whether the indorsement of General Porter on No. 31 was received by you as appears upon it?

A. Yes, sir.

Q. Your communication to him is this:

"GENERAL PORTER: I can move everything out of sight except Hazlett's battery. Griffin is supporting it, and is on its right, principally in the pine bushes. The other batteries are retired out of sight. Is this what you mean by everything?"

"GEO. W. MORELL, Major-General."

A. Yes, sir.

The indorsement was read, as follows:

"I think you can move Hazlett's, or the most of it, and post him in the bushes with the others, so as to deceive. I would get everything, if possible, in ambuscade. All goes well with the other troops."

"The WITNESS. Yes, everything was out of sight except Hazlett's battery. That was exposed all day long."

Q. Then, on the receipt of No. 31 from General Porter, you did not succeed in getting Hazlett's battery under cover?

A. No, I didn't attempt to. I wanted to keep one battery in position. That was in front of the bushes, with a brigade immediately behind it. The other two brigades were massed in the rear of that.

General MORELL: Tell me what is passing, quickly. If the enemy is coming, hold to him, and I will come up. Post your men to repulse him.

F. J. PORTER, Major-General.

Q. What next?

A. Then, I think, 35; which is a note from me to General Porter:

"GENERAL PORTER: Colonel Marshall reports a movement in front of his left. I think we had better retire. No infantry in sight, and I am continuing the movement. Stay where you are, to aid me if necessary."

"MORELL."

"Colonel Marshall reports a movement in front of his left. I think we had better retire."

What does Porter say?

General MORELL: I have all within reach of you. I wish you to give the enemy a good shelling without wasting ammunition, and push at the same time a party over to see what is going on. We can not retire while McDowell holds his own.

F. J. P.

I desire in this connection to call the attention of the Senate to the following facts. General Morell, in his testimony, says:

Q. Did the putting of those that were foremost under cover cause any movement of those behind them?

A. I think not. I think those immediately behind Hazlett's battery remained where they were, and the others went to the rear.

Q. Will you look at the communication from General Porter to Generals McDowell and King, on that day, which is printed on page 243 of the original record?

"GENERALS McDOWELL AND KING: I found it impossible to communicate by crossing the woods to Groveton. The enemy are in great force on this road, and as they appear to have driven our forces back, the force of the enemy having advanced and ours retired, I have determined to withdraw to Manassas. I have attempted to communicate with McDowell and Sigel, but my messengers have run into the enemy."

Q. What I want to ask is, whether you had any knowledge of that communication being made that day?

A. I don't remember it.



Q. Did you receive or know of any order indicating a withdrawal to Manassas

A. No, sir; nothing of the kind.

Q. Or any movement in that direction?

A. Nothing of the kind.

Q. Will you look at a copy of a communication from General Warren to General Sykes, dated 5.45 p. m., August 29, 1862, which has been put in evidence? [Paper shown witness.] In this General Warren uses these words. I will read the whole of it:

"GENERAL SYKES: I received an order from Mr. Cutting to advance to the support of Morell; I faced about and did so. I soon met Griffin's brigade withdrawing, by order of General Morell, who was not pushed out, but retiring. I faced about and marched back two hundred yards or so; I met then an orderly from General Porter to General Morell saying he must push on and press the enemy; that all was going well for us and he was retiring. Griffin then faced about and I am following him to support General Morell, as ordered. None of the batteries are closed up to me.

"Respectfully,

"G. K. WARREN."

Q. Do you know anything of that allusion to yourself in it?

A. No, sir; I never gave General Griffin any order of that kind.

Q. What kind?

A. That he should retire or retreat. "There was no order to leave the front, except to get under cover of those bushes.

Q. State whether during the whole of the 29th you had your whole division in command ready to meet any attack that might be made by the enemy.

A. Yes; I did.

Q. Although they were under cover, as you have described?

A. Within reach at any rate of the batteries, just at the other side of the road—within a few minutes' call.

Q. Were your advanced regiments and skirmishers in such position in the neighborhood of Dawkin's Branch that if any movement toward attacking you had been made by the enemy you would have known it in time to receive it with the whole of your division?

A. I think so.

Q. Will you state what action you took in obedience to No. 37, which directed you to push up two regiments supported by two others preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the section of artillery opposed to you—what you did with the four regiments indicated, and what you did with the rest of your division in connection with what you did or what you ordered?

A. When I received that order—the latter part says "the battle works well on our right"—

"the battle works well on our right; the enemy said to be retiring up the pike"—I said immediately to the person who brought it that the order was given under a misapprehension. We knew the enemy were not retiring; and I believe I sent that message to General Porter. I immediately gave orders to move the whole of my division to the front to be in readiness to support the four regiments. While that was going on I received a verbal order from Colonel Locke to make an attack. When I received this order it was quite late in the afternoon, just before sunset; the sun was almost touching the tops of the trees. And soon after that an order in writing, which is No. 38, "to put the men in position and remain during the night."

General Morell's attention was here called to Colonel Locke's statement on court-martial trial, and then this follows:

"He (that is, the messenger from General Pope) handed the general a note, which I afterward ascertained was an order for him to attack the enemy at once. He very soon afterward ordered me to ride up to General Morell and direct him to move forward and attack the enemy immediately, and to say that he would be up himself right after me."

Then on page 223:

"Toward the close of the day, when I was sent by General Porter to General Morell with the order for him to move forward his division and attack the enemy, on my way up to General Morell I passed Colonel (now General) Warren."

Is that, as you now understand it, the verbal order which General Locke finally brought to you to attack after you had received and were proceeding to execute No. 37?

A. I think now that it is, from conversations that I had had with Major Earle. At the time I knew nothing about this 37th order.

Q. You merely received this written and verbal order directing an attack in succession?

A. Yes; and when Colonel Locke came to me with that order I was engaged

in getting my men up to the front, and I supposed it was rather supplementary to the written order, and perhaps to expedite the movement. After this investigation was begun I tried very hard to recollect who brought me that written order to attack with four regiments, and until I conversed with Major Earle and saw the letter of his I could not fix it. But upon talking with him I am very well satisfied now that he did bring the order, and that Colonel Locke's order referred to the 4.30 p. m. order.

Q. Colonel Locke's order that he describes as being for you to attack with your division?

A. As Colonel Locke states in his testimony on page 223. I can not speak positively, but, from conversation with Major Earle and my recollection, I have no doubt that it is so.

There is the evidence of his own staff officer showing that he saw him receive the order, and that he immediately sent an order to Morell to attack, and so soon as he gave the order for Morell to attack then he dispatched a written order to Morell directing him not to attack, but to remain in *statu quo* all night.

Dispatches that passed between Porter and General Morell on the 29th of August, 1862, while Morell occupied the position mentioned by him in his testimony, and while Porter was two and one-half miles back at Bethlehem chapel:

#### DISPATCHES BETWEEN PORTER AND MORELL.

AUGUST 29, 1862.

GENERAL MORELL: Push over to the aid of Sigel and strike in his rear. If you reach a road up which King is moving and he has got ahead of you, let him pass, but see if you can not give help to Sigel. If you find him retiring, move back toward Manassas, and should necessity require it, and you do not hear from me, push to Centreville. If you find the direct road filled, take the one via Union Mills, which is to the right as you return.

F. J. PORTER, *Major-General*.

Look to the points of the compass for Manassas.

GENERAL MORELL: Hold on, if you can, to your present place. What is passing?

F. J. PORTER.

GENERAL: Colonel Marshall reports that two batteries have come down in the woods on our right toward the railroad, and two regiments of infantry on the road. If this be so, it will be hot here in the morning.

GEO. W. MORELL, *Major-General*.

Indorsed as follows:

Move the infantry and everything behind the crest, and conceal the guns. We must hold that place and make it too hot for them. Come the same game over them they do over us, and get your men out of sight.

F. J. PORTER.

GENERAL PORTER: I can move everything out of sight except Hazlett's battery. Griffin is supporting it, and is on its right, principally in the pine bushes. The other batteries and brigades are retired out of sight. Is this what you mean by everything?

GEO. W. MORELL, *Major-General*.

Indorsed as follows:

GENERAL MORELL: I think you can move Hazlett's, or the most of it, and post him in the bushes with the others so as to deceive. I would get everything if possible in ambuscade. All goes well with the other troops.

F. J. P.

GENERAL MORELL: Tell me what is passing, quickly. If the enemy is coming, hold to him, and I will come up. Post your men to repulse him.

F. J. PORTER, *Major-General*.

GENERAL PORTER: Colonel Marshall reports a movement in front of his left. I think we had better retire. No infantry in sight, and I am continuing the movement. Stay where you are, to aid me if necessary.

MORELL.

**GENERAL MORELL:** I have all within reach of you. I wish to give the enemy a good shelling without wasting ammunition, and push at the same time a party over to see what is going on. We can not retire while McDowell holds his own.

F. J. P.

AUGUST 29.

**GENERAL MORELL:** I wish you to push up two regiments supported by two others, preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the section of artillery opposed to you. The battle works well on our right, and the enemy are said to be retiring up the pike. Give the enemy a good shelling as our troops advance.

F. J. PORTER,  
*Major-General Commanding.*

**GENERAL MORELL:** Put your men in position to remain during the night, and have out your pickets. Put them so that they will be in a position to resist anything. I am about a mile from you. McDowell says all goes well, and we are getting the best of the fight. I wish you would send me a dozen men from the cavalry. Keep me informed. Troops are passing up to Gainesville, pushing the enemy. Ricketts has gone; also King.

F. J. PORTER, *Major-General.*

WARREN'S NOTE TO GENERAL SYKES.

5 h. 45 m. P. M., Aug. 29, '62.

**GENERAL SYKES:** I received an order from Mr. Griffin to advance and support Morell. I faced about and did so. I soon met Griffin's brigade, withdrawing, by order of General Morell, who was not pushed out, but returning. I faced about and marched back two hundred yards or so. I met then an orderly from General Porter to General Morell, saying he must push on and press the enemy; that all was going well for us, and he was returning. Griffin then faced about; and I am following him to support General Morell, as ordered. None of the batteries are closed up to me.

Respectfully,

G. K. WARREN.

It was denied that General Sturgis was under Porter's orders; here is the evidence:

**GENERAL STURGIS:** Please put your command in motion to follow Sykes as soon as he starts. If you know of any other troops who are to join me, I wish you to send them notice to follow you.

We march as soon as we can see.

F. J. PORTER, *Major-General.*

PORTER'S DISPATCHES TO M'DOWELL AND KING.

General McDOWELL or KING:

I have been wandering over the woods, and failed to get a communication to you. Tell how matters go with you. The enemy is in strong force in front of me, and I wish to know your design for to-night. If left to me, I shall have to retire for food and water, which I can not get here. How goes the battle? It seems to go to our rear. The enemy are getting to our left.

F. J. PORTER,  
*Major-General Volunteers.*

**GENERAL McDOWELL:** Failed in getting Morell over to you. After wandering about the woods for a time I withdrew him, and while doing so artillery opened upon us. The fire of the enemy having advanced and ours retired, I have determined to withdraw to Manassas. I have attempted to communicate with McDowell and Sigel, but my messengers have run into the enemy. They have gathered artillery and cavalry and infantry and the advancing masses of dust show the enemy coming in force. I am now going to the head of the column to see what is passing and how affairs are going, and I will communicate with you. Had you not better send your train back?

F. J. PORTER, *Major-General.*

AUGUST 29, 1862.

**GENERALS McDOWELL AND KING:** I found it impossible to communicate by crossing the woods to Groveton. The enemy are in strong force on this road, and as they appear to have driven our forces back, the firing of the enemy having advanced and ours retired, I have determined to withdraw to Manassas. I have attempted to communicate with McDowell and Sigel, but my messengers have run into the enemy. They have gathered artillery and cavalry and infantry, and the advancing masses of dust show the enemy coming in force.

I am now going to the head of the column to see what is passing and how af-

airs are going. Had you not better send your train back? I will communicate with you.

F. J. PORTER, *Major-General*.

I desire to call attention to the fact that none of the communications to Morell, McDowell, and King, or any other officer, by Porter, has the time of sending or receiving the same marked on that day—a very unusual and unmilitary proceeding.

DISPATCH OF GENERAL BUFORD TO GENERAL RICKETTS.

HEADQUARTERS CAVALRY BRIGADE—9:30 a. m.

GENERAL RICKETTS: Seventeen regiments, one battery, and five hundred cavalry passed through Gainceville three-quarters of an hour ago on the Centreville road. I think this division should join our forces now engaged at once. Please forward this.

JOHN BUFORD, *Brigadier-General*.

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